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THE AMERICAN ENTERPRISE

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A National Magazine of Politics, Business, and Culture

Death of an Officer
Gaye Wagner

Stopping Criminals
James Q. Wilson
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David Kopel and others

Reining in Runaway Judges

Solzhenitsyn in Russia: Year 1

Feminists & Broken Families

Amitai Etzioni Sticks Up for Cultural Conservatives

Affirmative Action Under Fire

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LAW AND ORDER

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May/June 1995

Volume 6, Number 3

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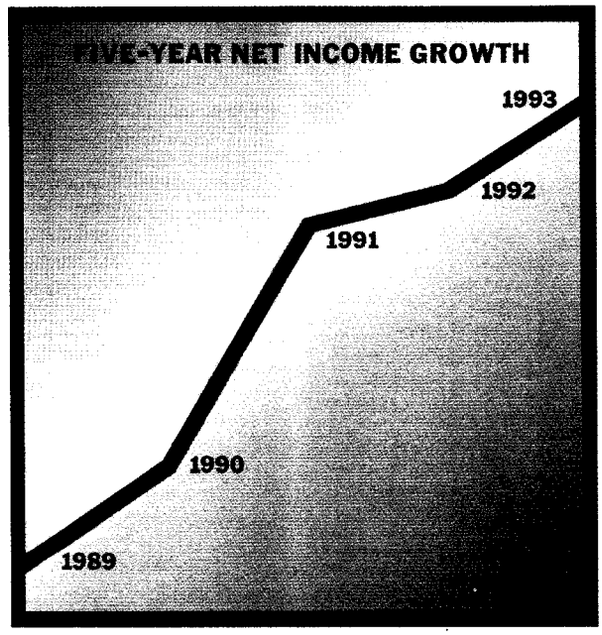

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THE AMERICAN ENTERPRISE

A NATIONAL MAGAZINE OF POLITICS, BUSINESS, AND CULTURE

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Bird's Eye

KARL ZINSMEISTER

Crime and the Hypocrite

Let's call her Yvonne Rodriguez. She was a pleasant young Latino woman from Albuquerque, fresh out of law school, brimming with earnest liberal activism. She had arrived in Washington, D.C., a few days before to take a position at a "public interest" law group that spends most of its time springing convicted prisoners, filing suit against any restrictions on the conduct of the homeless, and attacking landlords, the city government, the police, and the juvenile justice system.

There are scores of such organizations in D.C. Fueled by grants from left-wing foundations and the devoted labor of Ivy League true believers, they have broken down nearly all of the rules and disciplining sanctions that once moderated incivility on big city streets. These gladiators for liberation have made the justice system in D.C. and most other American cities a revolving door, where few criminals are caught, fewer are convicted, and fewer still serve any meaningful time deprived of their freedom. In Washington, the liberators and their confreres among judges and the media have made it impossible to clean the bums out of Lafayette Park across the street from the White House. They've struck down vagrancy and panhandling ordinances that used to prevent vile behavior and aggressive begging from erupting on public streets. They've swept aside all sanctions against antisocial public housing residents.

GLADIATORS FOR LIBERATION HAVE MADE THE JUSTICE SYSTEM A REVOLVING DOOR, WHERE FEW CRIMINALS ARE CAUGHT, FEWER ARE CONVICTED, AND FEWER STILL SERVE ANY MEANINGFUL TIME DEPRIVED OF THEIR FREEDOM.

Which brings me back to Yvonne. During the decade my family and I lived in Washington I worked as a freelance writer. Freelancing is a tough way to make a living; my wife and I had two small children to provision; and Washington has a ridiculously pricey real estate market. So we bought a house that was on the edge of Washington's interesting Capitol Hill neighborhood, but across the street from a large public housing project that was one of the city's worst. I renovated the place in the evenings and on weekends, and carved out an apartment in the front of the structure that we rented out to help meet our mortgage. Yvonne answered an ad to rent our apartment.

The house was great, and we had some fun tenants over the years. But only three types of people were willing to live in our neighborhood: 1) Do-gooders who refused to disapprove of the classic ghetto traumas that played themselves out day and night on our street. 2) Cantankerous individualists who refused to be driven out of a great, quirky old neighborhood with real character (Reston, Virginia looming as the alternative). And, 3) people who couldn't afford to live elsewhere. Yvonne was clearly a #1 (*most* of our tenants were save-the-world types). Your editor was a mix of 2 and 3.

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By the year Yvonne showed up, I had lots of experience with nice young yuppies coming to see the apartment, only to flee at high speed from the tough neighborhood. So I had a little drill I followed to get right to the point and avoid misunderstandings. I would show the new arrivals the apartment, then walk them around the block so they could get a good look at the housing project, the gentlemen of the boulevard who spent their time drinking and conducting entrepreneurial activities out front, and our other street realities. That way there were no surprises or frustrated tenants.

I remember circling the block with Yvonne, and her asking the usual question: "Is it safe?" I gave my usual answer: No city is really safe these days, and our block is a lot rougher and grittier than most. But with reasonable caution it's manageable enough, else we wouldn't be living here ourselves with two small children. Lease gets signed. Money and keys exchange hands.

Yvonne is to move in that weekend. The following Monday she'll start rescuing the oppressed. Meanwhile, my wife and I are off to visit her family in Massachusetts. I wish Yvonne a good moving day, and give her the phone number at my in-laws.

Maybe 16 hours, and 400 miles, later, the phone rings in Massachusetts. It's Yvonne. She's in the apartment, and it's ten o'clock at night and horrible things are happening outside. Oh great, I think—her very first day and some of the riff-raff decide to perforate each other. "What's going on, Yvonne?" "Well, some men are smashing beer bottles in the street. And there's a lot of bad language and rowdy behavior. And I think some of those teenagers are selling drugs. I don't feel safe and can't take this. You've got to let me out of the lease."

I'm stunned. "Yvonne, I know it's disgusting and inexcusable, but whenever this stuff happens you've got to either call the police or go out in the yard and yell at them. We do it all the time."

"No, I can't take it. I've got to move."

Long silence. "O.K. We'll forget about the lease. Why don't you go stay with your friend, and we'll straighten things out when I return."

Was I shocked that an educated, sensitive young woman would be dismayed by the daily carnage overflowing from a public housing project in a city like Washington, D.C.? Hardly. I had been dismayed and perturbed about Washington's street anarchy every week, for years. What I couldn't believe was that this person, who was reduced to whimpering at the first outbreak of workaday urban barbarism, was the very same one who planned to make it her work, as a hired legal gun, to turn over what few tables still stood upright in the Civilization Saloon. What hubris, what hypocrisy to ride in and demand that others endure a level of moral hygiene that she had no capacity or intention of enduring herself.

Here was a classic limousine liberal. Devoting her professional life to cramping cops, loosing the mentally ill, probationing or acquitting criminals, suing teachers who dare to discipline and landlords who try to evict, and generally defending moral relativism and the whole poverty culture's right to reproduce itself without stricture. But at the same time insisting on living comfortably removed from the objects of her abstract compassion—and the social fallout of their anarchic behavior, her true professional handiwork.

Washington, D.C.'s posh northwestern wards are a kind of national nerve center for such folk, but there are identical precincts all across the country. Within these bastions live the cultural leaders who favor indulging just about any behavioral deviation that can be listed on paper. Until you try plunking an actual shelter or addict or released convict in the midst of *their* capuccino havens. Then the squeals rise heavenward.

THIS PERSON, WHO WAS REDUCED TO WHIMPERING AT THE FIRST OUTBREAK OF WORKADAY URBAN BARBARISM, WAS THE VERY SAME ONE WHO PLANNED TO MAKE IT HER WORK, AS A HIRED LEGAL GUN, TO TURN OVER WHAT FEW TABLES STILL STOOD UPRIGHT IN THE CIVILIZATION SALOON. WHAT HUBRIS. WHAT HYPOCRISY.

During their college years, and perhaps also on weekends later in life, the liberators may do a bit of recreational slumming. Women with lips organically glossed by The Body Shop and men whose pony tails bob against their black turtlenecks hum and buzz at gallery displays of storefront grafitti. Though they never actually listen to gangsta rap, they're very much in favor of the general concept.

The liberators, however, have no regular experience of actual neighborhood life as it must now be endured by lower-income city dwellers, day in and day out. Don't ask a liberator how her city's biggest public school has been affected by ACLU-induced bans on expulsion of troublemakers. Her kids don't go there. Don't inquire about how inner-city grocery stores cope with rampant shoplifters. She never gets anywhere near them. Don't ask her how police officers gain control of a man rampaging down a sidewalk on PCP now that civil suits have taken away use of nightsticks and chokeholds. Scarcely a liberator has ever seen such a sight.

The liberators don't know people like Charlie, a plumber who lived next door to us with his wife and baby. Charlie had grown up with his brothers and mother in southeast D.C., surely one of the few Irish kids to attend high school in Anacostia during the 1970s, and his main bit of practical advice to me shortly after I moved in was that "if you have to shoot someone breaking into your house and the body ends up outside, drag it back in so you can be sure it gets counted as self-defense." The liberators don't know people like Margarita, the unbelievably sweet and gentle Ecuadorean maid who lived down the block and agonized over the beatings her two boys experienced at Hine Middle School. They've

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never talked to Dwight Jackson, the black ex-con who used to work on my house with me until crackheads cleaned out his ground floor apartment one day. They got all the savings he had been collecting in a pillow for over a year in the hope of enrolling in tractor trailer driving school. Heartsick, Dwight just disappeared shortly after.

Yvonne Rodriguez was one of many. A few years after she passed in and then rapidly out of southeast D.C., we had a similar experience with a woman of French-Canadian extraction I'll call Jeanie. She had an Ivy League law degree and a passion for "progressive" politics that led her to become a staff attorney with the Public Defender's Office in D.C. She was reportedly sharp in court, and got more than her share of young arrestees (she mostly defended juveniles as I recall) released on technical or substantive points. Some of her clients were the kind of young men who attacked Catherine Fuller while I was living in D.C., gang raping the small, middle-aged black woman with a metal pipe to the point where she died of internal injuries.

Jeanie lived in our house with her friendly fiancé Ben, who travelled around the country as a Justice Department lawyer tripping up landlords in decoyed enforcements of Fair Housing rules. When Ben told me they were going to move out I asked if they had had any problems in the apartment. Ben answered, a bit sheepishly, that they liked the place a lot, but that the sight of the teenaged boys hanging out on the street all day, selling drugs, had begun to eat at Jeanie, to really frazzle her, in fact. Later, Jeanie explained to me that after spending daylong defending such individuals, she really wasn't up to seeing more of the type outside her doorstep. It had become too much of a strain to face that every morning. Jeanie and Ben ended up buying a house in Takoma Park on the Maryland border—where there are no residents sprung by the Public Defender's Office.

HERE WAS A CLASSIC LIMOUSINE LIBERAL. DEVOTING HER PROFESSIONAL LIFE TO CRAMPING COPS, LOOSING THE MENTALLY ILL, PROBATIONING OR ACQUITTING CRIMINALS, SUING TEACHERS WHO DARE TO DISCIPLINE AND LANDLORDS WHO TRY TO EVICT, AND GENERALLY DEFENDING MORAL RELATIVISM AND THE WHOLE POVERTY CULTURE'S RIGHT TO REPRODUCE ITSELF WITHOUT STRICTURE.

What are the destructive dogmas promoted by the liberators? You know them: punishment is the real crime. Police are more likely to harm than help poor people. Prisons should be humane. Judges should be indulgent. Crime has to be stopped with social programs. Teenagers aren't accountable for their deeds. Grownups aren't accountable for their first three deeds. And so forth.

These sorts of sureties have been pronounced from on high for three decades now, mostly by individuals comfortably insulated from the rough cruelties of the anti-social street life they've sponsored. The advocacy has been more than just flatus. Laws and procedures and institutions have been massively bent in the direction of toleration and apologism for crime. Something that ranks close to anarchy in some places has resulted.

The American Enterprise—and quite definitely the American people—would like to see this reversed. In the pages that follow you will find some very specific ideas as to how that might be accomplished.

"OUR DANGERS DO NOT LIE IN TOO LITTLE TENDERNESS TO THE ACCUSED. OUR PROCEDURE HAS ALWAYS BEEN HAUNTED BY THE GHOST OF THE INNOCENT MAN CONVICTED. IT IS AN UNREAL DREAM. WHAT WE NEED TO FEAR IS THE ARCHAIC FORMALISM AND THE WATERY SENTIMENT THAT OBSTRUCTS, DELAYS, AND DEFEATS THE PROSECUTION OF CRIME."

—JUDGE LEARNED HAND

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Sidelights

Disney's new movie *Tall Tale* re-writes the story of **Paul Bunyan** for greener times: Bunyan's "been chased out by the clear-cut industry…he talks about borrowing from the land, rather than raping it.… In fact, during the whole movie he doesn't cut down a single tree," the director reports. · · · Tell it to the sheep: **Anne Conrad-Antoville** quit her orchestra job rather than play *Peter and the Wolf* because, the cellist says, it "teaches children to hate and fear wolves and to applaud a hunter who kills wolves." An animal-rights activist added, "So many of these fairy tales make people think wolves are bloodthirsty killers and they are not." ❧ **Jann Wenner**, who founded *Rolling Stone* during his drugs-and-rock-and-roll phase, *US* magazine during his celebrity infatuation phase, and *Family Life* magazine during his (very brief) good-yuppie-dad-raising-kids phase, recently left his wife and three young children to live with a young male staffer at Calvin Klein. We can hardly wait to see the periodical that results. ❧ Ho Chi Minh City has seen its first Baskin-Robbins open. · · · North Korea just bought its first shipment of U.S. corn and plans to buy rice too. · · · China's official news agency reports soaring rates of juvenile crime. ❧ **Woody Allen** on his films: "What it boils down to, really, is that I hate reality…unfortunately, it's the only place where we can get a good steak dinner." ❧ Maybe it's an allergy: The *New York Times* tried to run a serious piece on federalism and decentralized government, but it badly misquoted the 28-word **10th Amendment** and had the national government "delegating" powers to the states, instead of vice versa. · · · How, **Michael Kinsley** asked, can congressional Republicans say states should handle law enforcement and then turn around and set states' prison terms? Presidential candidate **Lamar Alexander** replied, "I agree with you there, Michael. If members of Congress want to tell Tennessee how long its prison sentences should be, they should quit and run for governor or sheriff."

Writing from jail, **Jonathan Dawes Jones** told the *Washington Times* that he's been arrested 48 times over the past 20 years and has found the men in prison "increasingly violent, with little or no fear of reprisal. The young offenders, especially.… juvenile offenders know their age is literally a license to commit murder—and get away with it." · · · After his family endured numerous crimes, former presidential press secretary **Ron Nessen** started carrying illegal Mace, which police confiscated as he entered a House office building—"one week after a Capitol aide had been shot dead in a park a block away." · · · Gun-control opponents are offering window stickers for houses that announce "Gun-free Zone." So far, they've had no takers. ❧ Miss America **Heather Whitestone**, who is deaf, is under attack from deaf activists for using her voice to communicate instead of just sign language. "A lot of us feel she shouldn't represent us to the mainstream world," said **Teresa Ezzell**, an official of Gallaudet University for the deaf. ❧ Asked by shock jock **Howard Stern** whether Congress should try to help out on the baseball strike, Sen. **Arlen Specter** (R-Pa.) replied, "You know what the Senate does best? Nothing." · · · *The New Republic* on the "closet liberalism" of **Christine Todd Whitman**: "Whitman's fate will rest on whether the party's most conservative wing will be willing to have someone on the ticket who holds the same views on gays as **William Weld** does and the same views on welfare as **Ted Kennedy** · · · On page three of this year's 1040 tax form, Commissioner **Margaret Milner Richardson** states that the **IRS** has been recognized as "a leader among government agencies in customer service." **Dave Barry** responds: "That is comparable to stating that 'cement is a leader among construction materials for use as a dessert topping.' " ❧ After **Gertrude Himmelfarb**'s Bradley Lecture on the declining state of American virtue (see p. 76), one baby-boomer was heard to mutter of her generation, "Nothing can be fixed until we all die off." · · · More optimistic, House Speaker **Newt Gingrich** told an Acton Institute seminar that he thinks the boomers may be turning from their countercultural path; his evidence: *Forrest Gump* beat out *Pulp Fiction* for Best Picture.

Although many United We Stand America activists support a roll-back of affirmation action, **Ross Perot** says that "historically," the programs have "served well. The only question…is if you still need them. I wouldn't be surprised if we found that pretty significant problems still exist because of old biases." · · · Rep. **J. C. Watts** (R-Okla.) says he won't join the Congressional Black Caucus: "My father didn't raise me to be a black man, but a man. I want to lead all the people." ❧ **Curtis Yates**, a student of Washington's **Malcolm X** Elementary School, told reporters that he and many classmates who receive free school lunches could be fed at home, and that many uneaten meals are discarded. "I feel like we're taking advantage of it," he said. ❧ Arguing that abortion is "as vital for our time as abolitionism was" for nineteenth-century America, author/actor **Ben Stein** attacked the GOP for casting right-to-life voters aside. ❧ Turning back the clock? The popularity of medieval Gregorian chant continues: record stores now sell hooded T-shirts that look like a monk's brown robe; the counter-display reads, "Chill to the Chant."

—SW

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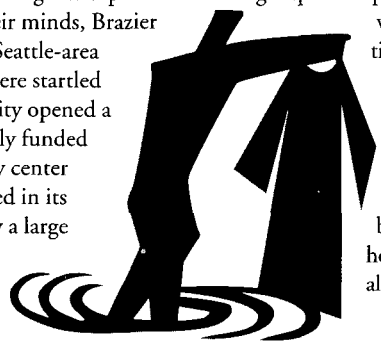
SCAN

DISCRIMINATING MULTICULTURALISM

Nona Brazier is an exciting candidate for governor in Washington State who enjoys broad backing from the business, minority, and religious communities alike (she is a prominent entrepreneur, a black woman, a serious Christian, and chair of the King County Republican Party). Recently she described to one of your editors an interesting example of the selective toleration practiced by liberal "multiculturalists."

Last year, Seattle's mayor Norm Rice issued an order forbidding city police officers from marching in a parade organized by ecumenical Christian groups, claiming it would be a violation of "church-state separation" if any of them were present. (The very next day, though, the police chief himself marched in a city gay pride parade—and gave orders that none of the men and women who bared their private parts during the event were to be arrested for indecent exposure.)

With their mayor's extreme aversion to religious expression fresh in their minds, Brazier and other Seattle-area residents were startled when the city opened a new publicly funded community center that featured in its main lobby a large mural of a Yoruba river god. Brazier was even more disturbed when she realized that this was the same animist deity that was giving her environmental-services company fits in Nigeria as it tried to carry out a contract to clean up the Ishasi River.



It seems Yoruban folk practice holds that the river god dyes his clothing in the river, and so finds multi-colored contaminants pleasing to him. This made it very hard to convince villagers that they should not dump their various waste products into the waterway. Having encountered this cult as a major obstacle to environmental progress and improved human health in Nigeria, Brazier now found that poorly informed multiculturalists were putting it on a pedestal back home.

At about the same time, a second example of multicultural hypocrisy was unfolding on America's other coast. Acting again on claims that "separation of church and state" was at risk, politically correct administrators in public schools in New York forbade student choirs and instrumental groups from performing music with any religious tint—placing off limits a vast sweep of material from Christmas carols to Bach chorales.

Even where this ban went into effect, however, black spirituals and hymns like "We Shall Overcome" continued to be performed in public schools. Asked to account for the double standard, multiculturalists explained that "you can't understand the civil rights movement without that music." Heartily agreeing, music teachers and other critics of the religious-music ban suggested that there might also be some valuable understanding to be gained from exposure to a piece like Handel's

THE BAMBI LOBBY

In coordinated demonstrations across New York State last fall, members of the Fund for Animals dressed up in squirrel suits and picketed public buildings to protest "the orphaning of 100,000 dependent baby squirrels" as a result of hunting during New York's six-month squirrel season. The state Department of Environmental Conservation estimates there are between 8 million and 10 million squirrels in New York; so this is not exactly an endangered species controversy. But spokesmen for the Fund for Animals insist that squirrels "are an animal that people can relate to." And nobody likes the idea of an orphan. So compassionate state officials duly launched an Orphaned Squirrel Study to mollify rodent advocates. State employees examined 376 squirrels taken by hunters last fall to see how many of them were lactating females. (Talk about specialized work.) The findings: Only five of the plugged creatures were mothers with fuzzy pre-squirrelers back home in the nest.

One less national injustice to worry about.

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Messiah. But to no avail. Carrying heavy cultural baggage and no p.c. bonus points, Handel and company were banished.

WOOLY THINKING

Last issue we reported that Yosemite Sam Donaldson, ABC News millionaire and New Mexico farmer, was resisting environmentalist efforts to introduce wolves and other predators into Western lands where livestock like Mr. Donaldson's sheep and angora goats are raised. At that time he neglected to note that he receives roughly $100,000 in federal wool and mohair subsidies for his flock. Attacked by Sen. Alfonse D'Amato (R-N.Y.), Donaldson called for abolishing the program, but added, "you can argue for change in a system and still be within the system."

WHAT DO YOU MEAN *WE?*

Columnist and American Enterprise Institute fellow Ben Wattenberg recently criticized President Clinton for his Johnny-come-lately admission that when it comes to affirmative action programs, "We shouldn't be defending things we can't defend."

Looking back over the last two years, Wattenberg wonders if the indefensible policies the president has in mind may be his very own:

"Like choosing his administration by quota—by race, gender, and ethnicity—so it would 'look like America'?

"Like supporting congressional redistricting based on race?

"Like appointing and hiring an all-star team of quotacrats to fill the civil rights slots in this administration, hailing from the NAACP Legal Defense Fund, the American Civil Liberties Union, the National Center for Lesbian Rights, the National Women's Law Center, the Puerto Rican Legal Defense and Education Fund, and the Mexican American Legal Defense and Education Fund?

"Like appointing Mary Frances Berry as chairperson of the U.S. Commission on Civil Rights, she who has written that 'civil rights laws were not passed to give civil rights to all Americans…[but only] to disfavored groups [such as] blacks, Hispanics, and women'?

"Like the 50 percent women-minority quota promulgated by his appointees on the Federal Communications Commission, for 1,000 new broadcasting licenses, at 60 percent below market value?

"Like his health care plan that pushed forward minority doctors to train for medical specialties while other doctors would be disproportionately tracked into general practice?

"Like his administration's support of retroactive enforcement of the 1991 Civil Rights Act (rejected by the Supreme Court, 8–1)?

"Like his Justice Department's demand that banks approve loans for minorities at below-market rates, with grants to cover down payments (which has the effect of raising interest rates on nonminorities)?"

MODEST PROPOSALS FOR PULLING DOWN THE OVERREPRESENTED

Defenders of affirmative action argue that goals, timetables, set-asides, and perhaps even quotas for specific groups must continue because women and minorities remain "underrepresented" when you count up society's plums by race and gender. Their argument presumes it is simply bigotry that prevents various groups from being equally represented in every social category. But that notion runs counter to human nature and common sense.

Strict equalization of people across the nation's various categories of jobs, hobbies, sports, and so forth would require totalitarian measures. For whenever one group is underrepresented, another must be overrepresented. If equal-representation proponents are serious, here are a few of the injustices that must be righted:

• Cambodians, a tiny minority of California's population, run over 80 percent of the state's doughnut shops. Indians run an even higher percentage of the state's motels. Seize those businesses and give someone else a chance.

• Eighteen percent of the judges on the federal circuit court in D.C. are black. This is 5 percentage points above their share of the U.S. population, and five times their share of practicing attorneys. At least one in three of this grossly overrepresented group need to be turned out of their chambers.

• Asians and Pacific Islanders are less than 3 percent of the U.S. labor force, yet account for 11 percent of the country's physicians and 7 percent of its professors. More of these folks should be serving as migrant farm workers.

• Gay men are overrepresented in glamorous creative professions like design, professional dance, the fashion industry, and restauranteuring. Lesbians are much more important in women's political organizations than their 1 or 2 percent of the total female population would justify. Are these people to be screened out to produce more proportionate numbers?

• We also note that well-above-proportional fractions of the secure, well-paying jobs provided by the U.S. Postal Service, our military services, and the federal civil service go to African-Americans. Does 12 percent of the population grabbing 17 percent of the jobs sound fair to you?

• Statistics show that single females are overrepresented among holders of full-professorships at colleges. And college graduates are overrepresented among public school teachers. Mohawk Indians are overrepresented among steelworkers employed at the construction sites of government buildings, and in many cities Koreans have a lock on 80 percent of the greengrocers and convenience groceries.

• And what are we going to do about all those Jews in Hollywood? We hope Steven Spielberg, David Geffen, and Jeffrey Katzenberg plan to get some Swedes, Guatemalans, and Samoans into high management positions with their new production company *real soon*. If, that is, they hope to be granted access to the airwaves (which are, after all, public property).

• Then there's professional sports. Two-thirds of all pro football players, and close to 90 percent of players in the NBA are black. (Dare we mention the shortage of female players?) Many players literally earn more in a year than the owners of their teams (who undoubtedly are horridly out of balance in the direction of old, male, whiteness). We can't remember when an Inuit girl last sunk a fallaway three-pointer in the Boston Garden. And we don't see why the nation should have to put up with this anymore.

NEW JERSEY AGONY

The *New York Times* zeroes in on a little-noticed brutality in New Jersey: "As for her spending program, [Republican Gov. Christine Todd] Whitman is frank to admit it involves pain.... Her most striking proposal for savings is a plan to eliminate 3,400 state jobs, primarily through privatization. Perhaps some jobs are not needed. Even so, this is a brutal transference of state salaries into the pockets of taxpayers."

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AFFIRMATIVE ACTION AT THE BURSAR'S WINDOW

When Matt Sargent graduates from Cornell University's Johnson School of Management, he will owe more than mere gratitude to his alma mater. He'll be thousands of dollars in debt from tuition loans. But had Sargent been born with a darker skin color the Johnson School would have fully subsidized his tuition with a race-based scholarship.

Affirmative action policies on university campuses have gone far beyond mere preferential treatment in admissions—the fees charged to students now also vary by race. Race-based tuition waivers like those offered at Cornell have become ubiquitous at competitive business schools. Schools compete with extremely preferential financial inducements to lure as many minority enrollees as possible.

In addition to paying all of the $40,000+ two-year tuition bill for every accepted student of an underrepresented minority, the Johnson School also reimburses all of their travel expenses. The school waives the $700 fee charged to all others for its two-week pre-enrollment math review course, and it pays for perks like free tutoring and subsidies for minority MBA associations. In all, each minority student receives over $50,000 in unconditional benefits from the school. Dozens of other schools do likewise.

These goodies are granted regardless of financial situation—Congresswomen's children and dentists' sons of the right skin color automatically qualify for full subsidy—making it clear that the university's goal is not boosting the disadvantaged but rather building a publishable box score of enrollment by race that conforms to liberal decorum and the demands of the gene-counters. Meanwhile, nonminority students are not eligible for any of these scholarships even if they live in dire penury.

— Kenneth Lee is a student at Cornell University.

UNITY AND DIVERSITY TODAY

Stanley Crouch's "Melting Pot Blues" in our last issue—which was adapted from a speech at an Ethics and Public Policy Center conference—will be published this fall by the Center as part of a book entitled, *Reinventing the American People: Unity and Diversity Today*. The volume will also include contributions from Mark Helprin, Harvey Mansfield, Glenn Loury, and other notables.

DEFUNDING THE HUMANITIES

Excerpted from testimony AEI scholar Walter Berns gave before the U.S. Senate in favor of defunding the National Endowment for the Humanities. Extracts from the ensuing discussion appear nearby.

I served on the National Council on the Humanities from 1982–88. My first exposure to the Endowment came in 1982 when, going through a list of proposals that had been approved before we had been appointed, Gertrude Himmelfarb and I came across an award of $160,000 for a film that would celebrate the graffiti on New York subway cars. We brought this to the attention of Chairman William Bennett, who killed the grant. The filmmakers then applied to the National Endowment for the Arts which approved the award a year later.

Properly understood, of course, the humanities, like the arts, know no party, and the NEH has done things that both Republicans and Democrats can support, such as subsidizing the Library of America editions of the works of classic American authors. It also funded Ken Burns's Civil War series. No fair-minded person can object to these grants. Unfortunately, any fair-minded person can object to many another grant.

The trouble arises from the fact that just as the NEA is dependent on the arts world to define the arts, the NEH is largely dependent on the academic world to define the humanities. The question for Congress is, what is going on in the universities, especially in the humanities faculties?

Consider the current state of legal education. We have it on the authority of a distinguished professor of constitutional law, Sanford Levinson, that the students in "most major law schools" today are likely to be taught that the Constitution means nothing or anything, that, as he puts it, "there is nothing that is unsayable in the language of the Constitution." He concludes: "The death of constitutionalism may be the central event of our time, just as the 'death of God' was that of the past century."

What is true in the law schools is true also in the political science departments: the political theory being taught in the prestigious schools is largely one or another version of postmodernism, thought deriving from Friedrich Nietzsche and his epigones, none of them a friend of liberal democracy.

During my tenure at NEH, the American Council of Learned Societies served as a conduit for NEH grants to individual scholars. A few years ago it issued a report complaining that the vast majority of the great books (or, as the report would have it, so-called great books) were written by "Western white males," and "the best scholars in the humanities today" know that all classic texts are nothing but expressions of the unconscious class, gender, and race prejudices of their authors. Our Declaration of Independence may speak of "self-evident truths," but according to the ACLS report, "even the most self-evident truth" is a lie or a myth.

This is the sort of thing that passes for the humanities today. Scholarship has become politicized; scholars today are supposed to be committed, not to the truth or the facts, but to a political cause. This is not scholarship; it is propaganda.

What can Congress do about it? Absolutely nothing. It would be improper for Congress to attempt to reform the universities. But members of Congress can do one thing. You can forbid the NEH to fund the universities' humanities programs. Right now, they do more harm than good.

*—**Walter Berns** is professor emeritus of government at Georgetown University and a resident scholar at AEI.*

A HUMANISTIC TÊTE-À-TÊTE

Sen. Paul Wellstone (D-Minn.) took umbrage at the testimony of Walter Berns on the National Endowment for the Humanities (see previous item).

Sen. Wellstone: For the record, I would like to make it crystal clear that I believe that what we have heard here is a caricature.... It is a very angry attack on NEH, but it is completely disconnected from the reality of what NEH's mission has been.... I really do not have a question. I just simply want to be clear.

Sen. Frist (R-Tenn): Response, Dr. Berns?

"It worked! -- I got the National Endowment for the Arts to pay for my tune-up!"

From the *Wall Street Journal* –Permission, Cartoon Features Syndicate

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Walter Berns: Even senators have a right to their opinion.
Sen. Frist: Dr. Gross, any comment?
Barry Gross (National Association of Scholars): Well, yes. I can document for you hundreds, thousands of cases, even in your own state of Minnesota, even at the University of Minnesota if you like....
Sen. Wellstone: Dr. Gross, this would be very interesting. So what I am now to understand is that actually the humanities at Minnesota and the quality of education are in decline; that we have too much of a focus on race and gender, that there is too much of a discussion of middle classism and all the rest of it, and there is no rigor. Is that correct?
Mr. Gross: Well—
Sen. Wellstone: By the way—and that is your view—do you have any supporting evidence for that?
Mr. Gross: Well, I can send you a great deal.... You can take every objective standard you wish, whether it is LSAT scores, MCAT scores, SAT scores, GRE scores. They have not only fallen drastically over the past 20 years, but even in the top [10 percent] they have fallen drastically. That is, [even] the best students now do less well than they did before.... Many employers complain. The *New York Times* had an article the other day that students who graduate even from elite schools cannot write a coherent sentence, cannot analyze a problem properly, cannot read a manual that tells them how to operate an office machine.

STOP US BEFORE WE POLL AGAIN

Political analyst Mike Murphy recently declared war in the pages of *Harper's Magazine:* "Ban pollsters for two years." A veteran of Michigan Gov. John Engler's reform fights, Murphy argued that statesmen can produce the bold achievements that bring lasting success only if they act decisively, even in the face of initial public fretting. "In 1991, the Engler administration...cut welfare. They just eliminated general assistance altogether. There was a huge war. Gov. Engler cut arts funding. Our fat-cat donors didn't like that at all. Engler got his reelect [poll] number down to 19 percent," but in 1994 he actually won reelection by 61 to 39 percent, even winning the endorsement of the state's largest black newspaper.

"Let's face it," Murphy argued, "we are in for two years of political hell. There is simply no happy way for us to keep our promises. ...So our success is going to be a function of how much courage we show, because we're going to get no credit for years."

Murphy also could have cited the contrasting experiences of Presidents Reagan and Bush, who saw an inverse relationship between their numbers in the polls and their reelection percentages: the steady-in-the-saddle cowboy watched his poll rating plunge to 35 percent in his first term, but he won a second term with 59 percent of the vote. The wobbly patrician preened when his first-term approval ratings soared to nearly 90 percent, but when reelection time came, he garnered only 38 percent of the vote. No guts, no glory, you might say.

WELFARE AND ABORTION—TWO OF A KIND?

Republican efforts to reduce AFDC welfare benefits have drawn fire from the U.S. Catholic Conference, the National Right to Life Committee, and other pro-life groups. Still other pro-life groups, like the Family Research Council (FRC), are promoting the reforms. Our current welfare system, these groups argue, works to discourage marriage, sexual restraint, and family loyalty, and only by changing the rules to reemphasize these will the irresponsible culture of illegitimacy and abortion be replaced by one built on marriage, family solidarity, self-reliance, and respect for children.

"Illegitimacy and abortion," the FRC argues, "are twin evils

HYPOCRISY ON PARADE

One-year-old platitudes from four U.S. senators who this year voted *down* the Balanced Budget Amendment.

Tom Daschle, D-S.D., *Congressional Record* 2/28/94: **"I fear what a future of mounting national debt will do to the quality of life of the people I represent and to the standing of our country in the world. For these reasons, I will vote in favor of the Balanced Budget Amendment. Some of my colleagues feel, as does President Clinton, that we can make these tough budget choices without amending the Constitution. I wish they were right, but history indicates that they are not."**

Kent Conrad, D-N.D., *Congressional Record* 2/25/94: **"Let me make clear I believe there is a need for a Balanced Budget Amendment."**

Wendell Ford, D-Ken., *Congressional Record* 3/1/94: **"I support a Balanced Budget Amendment and always have. We as a congress and, being the representatives of the people, as a nation must begin to regain control of our spending policies. We need something that forces us to do this. An amendment to the Constitution would do just that."**

Byron Dorgan, D-N.D., *Congressional Record* 2/28/94: **"No one in this chamber can name a single month since 1980 in which the public debt has fallen. In every month since then, the debt has risen. That is why I conclude we need a constitutional amendment to balance the budget."**

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that spring from the same misconception that life is cheap and motherhood bears no sacred responsibility." The council adds that today's anonymous welfare bureaucracy hinders private charities like crisis pregnancy centers, which provide personal direction check-writing bureaucrats cannot.

ROOM AT THE TABLE

When *The American Enterprise* held a news conference to discuss ways private charities could take over welfare responsibilities from failed federal programs, one journalist pointed out that Catholic Charities USA, the nation's largest private charitable organization, had announced it could not take on the government's entire caseload. William Bennett, Marvin Olasky, and George Liebmann—all contributors to our January/February welfare reform issue—responded. Maternity homes expert George Liebmann answered that no one is suggesting the federal government drop all assistance overnight. What has been suggested is that a phased transition occur, and that at some future date new welfare cases be subject to new rules. For while several million families are currently on welfare, the number of teenage mothers who enter the system each year is only 200,000–300,000, a much more manageable number.

Welfare expert Marvin Olasky added that "If there are some large charities who say, 'we don't want to do it,' that's their choice. There are others who do want to do it." As an example, he cited St. Stephen's Church of God in Christ in San Diego. The church's pews are filled with former drug dealers, crack addicts, and prisoners who've been rescued from dependency by the church and are now working, often in the humblest jobs. One man who started cutting grass went on to build a large lawn-care business. The folks at St. Stephen's, Olasky said, "would say, 'okay, if one of those other charities doesn't want to do it, send them to us.' "

Bill Bennett chimed in that many government job programs don't have trouble finding businessmen who'll provide jobs; they just can't inspire kids to take bottom-rung jobs. He added that while he sympathized with charities concerned about burgeoning case loads, he couldn't help recalling Mother Teresa's famous talk at last year's Washington prayer breakfast. Pleading for an end to abortion, she said, If you don't have the resources in the United States to take care of them, we'll take care of the babies. Just send them to us. "That," said Bennett, is "more consistent with Catholic teaching" than what some charities currently say.

DO-GOOD DONE WRONG

Washington echoes with calls for demolishing the Department of Housing and Urban Development. Even nonconservatives like Sen. Carol Moseley-Braun (D-Ill.) have called for razing public housing disasters in their states and instituting vouchers and other reforms. But to understand the present mess one must untangle its history.

In *How the Other Half Lives* (1890), Jacob Riis identified inadequate housing as one of the main sources of crime and degradation in the slums. Private landlords were mainly to blame, Riis said. Yet even then, there were contradictory warning signs. Investigating the notorious "Mulberry Bend" in Lower Manhattan, Riis noted with irony that the worst housing in the neighborhood was a former "model tenement" constructed by a philanthropical organization. Good intentions didn't always pay off.

Public housing got a big boost from new zoning laws in the first decades of this century. Zoning—which was often intertwined with anti-immigration efforts—quickly turned against two- and three-family homes, popular in immigrant neighborhoods. The "three-decker," which offered the owner a home plus two rentals, was outlawed by Boston's zoning ordinance in the early 1930s. In its place, reformers projected futuristic towers of the kind being designed by Ludwig Mies van der Rohe. Freed from the rapacious grasp of private landlords, the nation's poor would allegedly be transformed into model citizens by residence in these "cities of tomorrow."

Six months after the Roosevelt administration signed the first Federal Housing Act in 1938, a small garden apartment called the Jacob Riis Homes opened on the Lower East Side of Manhattan. Public housing was under way.

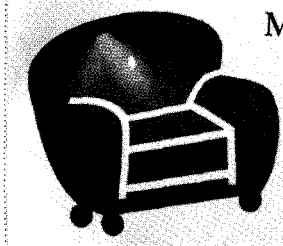
Early reports seemed too good to be true. Newspaper stories in the early 1940s reported *zero* crime rates. Given a decent place to live, urban urchins gave up gambling and petty thievery and turned to ballfields and playgrounds. In fact, there was much truth to these reports. What the earliest public housing projects did was to capture the "submerged middle class" of the Depression—people who had middle-class habits but had been thrown onto hard times by the general economic collapse.

Public-housing officials did everything they could to reinforce these middle-class virtues. Housekeeping rules were strictly enforced. Misbehavior led to expulsion. Residents trained in house-hunting and securing mortgages. Whole classes of tenants "graduated" into the middle class amidst great camaraderie.

Then things began to change. "Urban Renewal" (The Housing Act of 1949) funded the wholesale destruction of city neighborhoods. Replacement housing—when it was available—was concentrated in huge, isolated steel-and-concrete towers. As Jane Jacobs has pointed out, the urban planners' visceral dislike for commercial activity deprived these complexes of newsstands, coffee shops, and all normal street life. The policing of anti-social behavior by strangers and "bystanders" was all but eliminated.

By the 1960s, the old standards of housekeeping inspections and rules against unwed mothers fell by the wayside. Civil liberties groups contributed their own peculiar brand of social disorder by eliminating tenant screening procedures. By the end of the decade public housing projects had become sinkholes for the poorest and most violent of the poor.

Now crime rates in public housing are often two to three times higher than in surrounding neighborhoods, and getting caught in the crossfire of rival gangs is a common occurrence.



MUSICAL CHAIRS

The *National Journal* observes, with bewilderment, that halfway through his term "President Clinton is now on his third political director, his third chief spokesman, his second economic coordinator, his third personnel director (or fourth, depending on how you count it), and his second secretary to his Cabinet, not to mention his third counsel, his third scheduler, his second chief of staff, and his fourth deputy chief of staff charged with running the place day by day. Most of his other senior advisers now occupy jobs different from those they started in."

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Tragically, public housing has cut off the routes of upward mobility for the underclass. In all the years of excoriating private landlords, reformers never noticed that the landlords of the poor are generally poor themselves. The two- and three-family home, and even the small apartment building, have been the bottom rung on the ladder to the middle class for countless Americans. Studies from the early part of the century show that home ownership was actually higher in ethnic neighborhoods than among the more established middle class. (Immigrants were more likely to be carpenters and handymen who built or maintained their own homes.)

When everyone's landlord is the government, however, this escape route is eliminated. Poor families who could be paying a mortgage by renting two upstairs apartments are reduced to endless tenantry. Decent common life is further hindered when the landlord is a distant public agency and private property in homes is virtually unknown. The result: many public housing projects have turned into dispirited, government-sponsored war zones.

*—**William Tucker** is the author of* The Excluded Americans: Homelessness and Housing Policies.

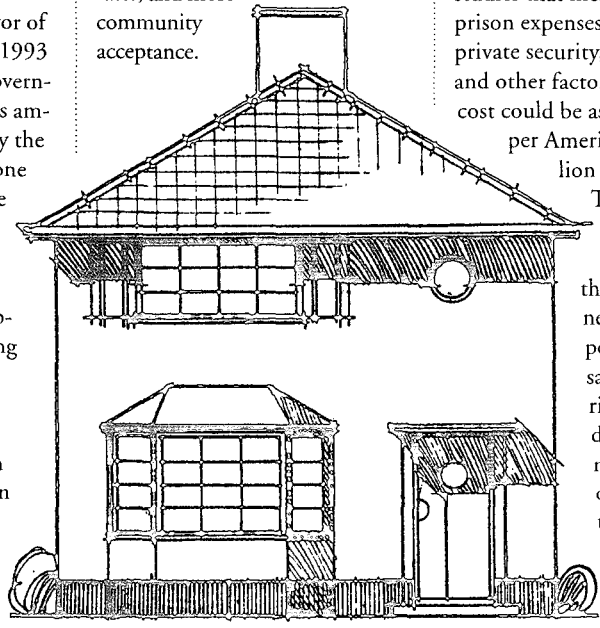
THE HABITAT FOR HUMANITY SOLUTION

Tom Fetzer was elected mayor of Raleigh, North Carolina in 1993 with a mandate to shrink government and cut taxes. After his ambitious plans were diluted by the city council, he discovered one place where he could change things by himself: by law, his appointments to the Raleigh Housing Authority weren't subject to council approval. Fetzer began choosing authority members who shared his determination to improve traditional public housing, most of them from the private sector rather than from the ranks of state government employees, who had dominated the panel in the past.

The new housing authority faced quite a challenge. The city's public housing projects were run-down and poorly maintained. A mother and child had died in 1992 after a faulty heating unit flooded their apartment with carbon monoxide. Raleigh's projects were also the site of half the city's shootings.

Yet in 1994, the old Housing Authority and members of the city council wanted to build yet another traditional public housing project, a 50-unit set of duplexes, in a suburban neighborhood. Mayor Fetzer, along with his new Authority, a new executive director who supports privatization of public housing, and members of the local chapter of Habitat for Humanity, the Christian volunteer organization, came up with an alternative.

With participation from local volunteers and prospective tenants, Habitat would build 40 homes on the site at a cost of $42,000 each, versus $78,000 for the publicly constructed duplexes. The Habitat homes would be owned by their occupants, who would pay property taxes to the city rather than consuming tax money (mostly federal) in the form of subsidized rent. By giving residents the chance to buy their own new homes, the plan would foster independence and, proponents suggest, lead to better maintenance, lower crime rates, and more community acceptance.



The Housing Authority and Habitat are still working on the details—one change might be to scatter the new homes across the city rather than keeping them all on one site—but Fetzer is already receiving credit for changing the nature of the public housing debate in Raleigh. "I have talked with many people who live in public housing," Fetzer says. "They do not want to see their neighborhoods continue to be plagued by lack of maintenance and by crime." And in shaking up the board of the housing authority, the mayor has found a way to pursue that goal without getting blocked by an intransigent city council.

*—**John Hood** is vice president of the John Locke Foundation, a public policy think tank based in Raleigh.*

COSTLY CRIME

For entrepreneurs today, crime is a deadly serious concern. Crime losses and the expenses of policing have become a major cost of doing business, and fear of crime among customers and workers can hurt an enterprise badly. The Conference Board recently surveyed over 350 CEOs and learned that they were more worried by crime than by the federal budget deficit and inadequately trained workers.

The economic toll of crime in this country is enormous. Recent studies that include police and prison expenses, spending on private security, lost productivity, and other factors indicate the cost could be as high as $1,600 per American, or $400 billion a year.

The National Retail Federation estimates that theft from businesses totals 1.5 percent of total sales. Even more serious are physical dangers. Murder is now the number-one cause of on-the-job deaths in New York State, according to the National Institute for Occupational Safety and Health. Businesses like taxi companies, gas stations, hotels, and food shops are particularly at risk. A single year's worth of crime injuries costs the United States $202 billion in medical expenses and productivity losses over the lifetime of the victims.

High crime levels are forcing heavy defensive expenditures by businesses. Even shopping malls, set up as safe private alternatives to dangerous public shopping streets, now face serious crime pressures. Since 1991, the industry has boosted its spending on security by 50 percent, to the point where urban malls now channel up to $1 million a year into guards, surveillance cameras, parking-lot lighting, and other measures. Those expenses, of course, end up on the cash register receipts of American consumers.

*—**Dale Buss,** a former* Wall Street Journal *reporter, now runs his own communications firm in Cedarburg, Wisconsin.*

MEETING THE NRA AT MIDNIGHT

Face it: The real motive of most gun controllers is fear of being shot by one of the young, black gangsters currently prowling America's cities. But to liberal urbanites, that fear—that horrid racist fear, no matter that it has some basis in reality—must never be faced. So, instead, gun control advocates, including President Clinton, speak as if the main foes of law and order in America today are the millions of hunters, gun collectors, and sport shooters who constitute the National Rifle Association. NRA members (overwhelmingly white, generally rural, almost invariably law-abiding) are caricatured as phantasmagoric demons capable of haunting the dreams of any scrupulously correct urbanite. Never mind that studies consistently show gun owners are better educated, have better jobs, and are less likely to approve of violence against dissenters and troublemakers than non-owners.

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Even by the most degraded standards of political debate, the sniping at NRA members represents mind-boggling dishonesty. Though you shouldn't expect them to admit it anytime soon, even NRA bashers know it's members of the Crips, not NRA cardholders,

whom we ought to be targeting in the war against violence. Congressman Charles Schumer and Senator Dianne Feinstein, duke and duchess of the Capitol gun-control mob, can rail at the farmers and hunters and hicks of the NRA all they like. But when they hear footsteps at midnight on a dimly lit Washington street, you can bet they'd love to turn and see a flannelled bumpkin walking to a truck bearing an NRA decal.

THE NATIONAL ORGANIZATION FOR SOME WOMEN

Why does this country keep spawning groups that claim to speak for other people? People whose opinions they wouldn't recognize or relate to even if they borrowed their pajamas and moved into their house for a week?

According to continuing newspaper reports, I apparently am represented by the ambitiously christened National Organization for Women, whose minions are running around the halls of the House office buildings this very minute. On my behalf, these news reports assert, NOW is pounding on the desks of obsequiously attentive congresspersons, claiming that they know exactly what I want and demanding to know when Congress is going to give it to me. But they don't know what I want. They've never even asked me. The only communication I have ever received from the National Organization for Women was a carefully worded "short-form" questionnaire that went kind of like this:

> Are you pro-abortion? How much pro-abortion are you? When did you first discover you were pro-abortion? Do you require a support group and/or government funding to help you be even more pro-abortion? Thank you for your opinions. We will convey them to the congresswoman we hope you voted for.

This was the same sort of short-form questionnaire used during the Spanish Inquisition.

Now I am a woman, and heaven knows I certainly have Issues and Concerns that I would truly love to slap on some congressperson's desk, but they aren't, for the most part, the Issues and Concerns that the National Organization for Women says I would have if I knew what was good for me.

The National Organization for Women seems to believe that women should be pro-abortion. Well, I'm something of a middle-of-the-roader on this one, along with a lot of other women whom NOW does not represent (to say nothing about the anti-abortion women whom NOW doesn't represent).

The National Organization for Women seems to believe that women should be pro-daycare. But I do not know any mother, working inside or outside the home, who truly believes that daycare is a swell way to raise a child.

The National Organization for Women seems to believe that work outside the home is more important, fulfilling, and desirable than work inside the home, and they sponsor many programs to help the woman at work. But for the woman who needs support for her choice to be at home, or for the working mother who seeks ways to leave the workforce in order to spend more time with her family, NOW offers a chilly response at best.

It takes an impressive amount of moxie for NOW officials to scuttle around Capitol Hill claiming they represent the interests of American females when their very limited agenda actually disenfranchises many of us. It makes you wonder who's running the National Organization for Women. Men?

It seems to me it is time for this energetic misrepresentation of the American woman's needs and feelings to end, and for NOW to begin to take all our choices and desires into equally respectful consideration. If they are unable to do this, perhaps NOW could be persuaded to change its name to something more appropriate. Such as "The National Organization for Some Women."

*— **Linda Burton** is a writer living in Batavia, Illinois.*

NOW'S NEW COMPETITION

Linda Burton, author of the previous item, and Katherine Dalton, who contributes a feature article on feminism later in this magazine, may be pleased to learn that the National Organization for Women has new competition for the hearts and minds of American women.

Over the past two years, not one but two impressive new national advocacy organizations have sprung up to address subjects of interest to women. They are the Independent Women's Forum, and the Women's Freedom Network, both headquartered in Washington, D.C. The IWF's national advisory board includes Elizabeth Fox-Genovese, Lynne Cheney, Wendy Lee Gramm, and Abigail Thernstrom. The Freedom Network includes some of the same advisors, as well as Mona Charen, Jean Bethke Elshtain, Jeane Kirkpatrick, Christina Hoff Sommers, and others.

Each group distinguishes itself sharply from NOW and other conventional feminist bodies in two major ways: they reject the feminist view of women as victims (of men, of society, of their own biology). And they insist that women are much more various in political views, occupational preferences, religious practice, and moral and cultural outlook than establishment feminism is willing to admit.

Both groups are strong supporters of equal pay for equal work laws, but beyond that end up opposing NOW initiatives most of the time. The IWF, for instance, has filed legal briefs supporting single-sex education in the VMI case before the Supreme Court, and supporting the state of New Jersey in its plan to deny increased benefits to welfare recipients who have additional children while on relief—in both cases in direct counterposition to NOW briefs.

The IWF is also pushing Sen. Kay Hutchison's bill to give homemakers the same access to IRA deductions as working women, and it is actively resisting the establishment of quotas for women within the U.S. judicial system. The IWF has a broad economic task force under the leadership of economists Wendy Gramm and Diana Furchtgott-Roth, and publishes an impressive quarterly journal of non-fiction and fiction under the editorship of Danielle Crittenden.

In the coming competition for truth and useful ideas, may the best women win.

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By Karl Zinsmeister

Indicators

AMERICA'S REVOLVING DOOR FOR CRIMINALS

Criminals who have already been caught and then released by an ineffective justice system are today's single gravest threat to the safety of American men, women, and children. Consider the havoc they inflict on their fellow citizens:

VIOLENT CRIMES COMMITTED ANNUALLY BY OFFENDERS ON PAROLE, PROBATION OR PRETRIAL RELEASE

Total violent crimes	696,785
Assaults	346,020
Robberies	319,740
Rapes	24,090
Murders	7,665

Source: Derived from Uniform Crime Report estimates, FBI.

Eliminating the pain and losses of these attacks wouldn't require any extra police, or new statutes, or magical breakthroughs in crime solving. All it would require is keeping known predators locked up for the full duration of their sentence.

3.5 million criminals, most of them repeat offenders, are walking the streets of America today on parole, probation or pretrial release. Yet figures from the Bureau of Justice Statistics show that **43 percent of all felons released early are rearrested for another felony within three years** (while another 10 percent have disappeared after failing to report to their probation officer, and untold others have committed felonies without getting caught, or have committed non-felony crimes). It is asking for trouble to continue freeing criminals on today's extraordinarily loose terms. **Of all individuals arrested for a violent offense these days, more than one out of three turns out to have been recently loosed by the authorities.** That blood is on the hands of weak government law enforcers.

Meanwhile, law-abiding citizens have grown weary of watching the jailhouse door spin:

PERCENTAGE OF PUBLIC SAYING THEY STRONGLY FAVOR OR FAVOR MEASURES TO...

Make parole more difficult	**82**
Whites	84
Blacks	74
Restrict bail	**75**
Whites	78
Blacks	58
Impose more severe sentences	**79**
Whites	78
Blacks	76

Source: Gallup Poll, December 1993.

CRIME AS A NOT-SO-RISKY CAREER

FBI reports show that **only 45 percent of all violent crimes, and 18 percent of all property crimes, were cleared by arrest in 1993.** Figures from the Bureau of Justice Statistics, meanwhile, indicate that **only one person out of every five arrested for a violent felony is subsequently convicted and then sentenced to at least a year in prison.** For those arrested for drug felonies, the figure is 10 percent. Among people arrested for homicide, only 49 percent are put away for a year or more. For rapists, the figure is 29 percent.

In other words, there is relatively little chance that a criminal will be nabbed for his crimes today, and even less chance that he'll be held in jail any significant amount of time even if he is caught.

Criminals who do end up behind bars typically spend just a little more than two years in confinement—serving only a *third* of their sentence on average—as the chart directly to the right shows.

Given that imprisonment is a modest risk, generally of short duration, and not particularly punitive for many of the individuals involved (lock-up these days is as likely to involve conjugal visits, HBO, kitchenettes with microwave ovens, and contraband drugs as not), it is perhaps not surprising that **millions of individuals are making crime a career, in which occasional short terms in the jailhouse are just a cost of doing business.** During periods of criminal activity between their comparatively short prison terms, these individuals prey on the vulnerable, recruit accomplises among the young, and do great damage to the social fabric. An indication of the recalcitrance of these career criminals is the fact that **four out of five state prison inmates today are repeat offenders. Almost half of all inmates are in the midst of at least their *fourth* sentence.**

PRISON TERM BEING SERVED BY CURRENT INMATES

First	20%
Second or third	36%
Fourth to sixth	26%
Seventh or more	19%

Source: U.S. Bureau of Justice Statistics, 1991 data.

AVERAGE PRISON TIME SERVED BY CONVICTS BEFORE RELEASE

	total time	portion of sentence
All offenses	2 yrs., 1 mo	33%
Murder	8 yrs., 8 mos.	43%
Rape	5 yrs., 2 mos.	39%
Property offenses	1 yr., 7 mos.	29%
Drug offenses	1 yr., 7 mos.	29%

Source: U.S. Bureau of Justice Statistics, 1990 data.

VICTIMIZATION ODDS

Number of criminal victimizations, 1992: **33.6 million**
Number of persons age 12 and older, 1992: **206.4 million**
Ratio: **1/6**

Source: U.S. Bureau of Justice Statistics

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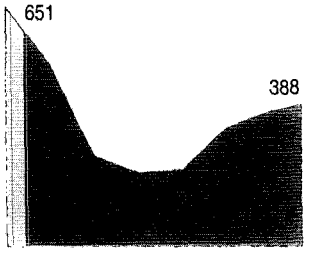
LOCK UP MORE VIOLENT LAWBREAKERS

During the 1960s and 1970s, the rate at which criminals were jailed was allowed to tumble. The number of persons sent to prison per thousand violent crimes dropped to less than a third of its starting level from 1960 to 1980—and crime rates exploded.

Chastened, the nation reemphasized imprisonment as a punishment for crime, and since 1980 the percentage of criminals ending up behind bars has been rising. But our incarceration level is still far below the 1960 norm:

PRISONERS INCARCERATED PER 1,000 VIOLENT CRIMES



Source: U.S. Bureau of Justice Statistics; Uniform Crime Report, FBI.

The U.S. crime rate has moderated since we started locking up more thugs. But if our streets are ever to become as safe as they were prior to the 1960s, an even higher proportion of violent criminals will have to incarcerated. Surer, swifter punishment is needed for those who hurt or rob the innocent. This, and not the lazier response of softness, represents the genuinely compassionate course.

Increasing our incarceration rate will inevitably require more prisons. You will often hear it said in public debates that "we already have enough prison space if only we'll let out the non-violent, non-serious offenders." Loose references to good kids piling up in the slammer because they got caught with one marijuana cigarette are not uncommon. All of that is nonsense.

Figures show that 94 percent of the inmates in state prison today are either violent or repeat offenders (see chart above right). **The remaining 6 percent are mostly guilty of serious crimes like large-scale theft or embezzlement, felony drug-trafficking, or major burglary. Nearly all of the people in prison today are there for a very good reason.**

CRIMINAL HISTORY OF STATE PRISON INMATES

Violent repeat offenders	50%
Non-violent repeat offenders	31%
Violent first offenders	13%
Non-violent first offenders	6%

Source: U.S. Bureau of Justice Statistics, 1991 data.

So long as we leave ourselves in the position many states are currently in—where some inmate has to be let out early every time a new one is put in, because of a lack of prison beds—we will be stuck with an enormous amount of arrest skipping by police, reluctant plea bargaining by prosecutors, rushed parole by corrections officials, and related failures of justice.

It's time to build more prisons and restore the pre-1960s link between crimes against a neighbor and a subsequent loss of liberty.

CRIME BULLETS

- ☐ **Drug Use by Inmates**—62 percent of all state prison inmates report they used drugs at least weekly for some period of their life. 36 percent used drugs daily in the month before their offense. 31 percent were under the influence of drugs when they committed their crime.
- ☐ **Women in Prison**—The number of women in state prisons grew 75 percent from 1987 to the beginning of 1992, reaching more than 40,000.
- ☐ **Juveniles Who Commit Violent Crimes**—Gallup recently asked the public how they should be treated. 73 percent said "the same as adults." 19 percent said with more lenience.
- ☐ **The Bamboo Cane Solution**—
  Los Angeles
  Population: 2.7 million.
  Crimes, 1993: 1,100 homicides, 1,855 rapes, 39,227 robberies, 65,541 car thefts.
  Singapore
  Population: 2.8 million.
  Crimes, 1993: 58 homicides, 80 rapes, 1,008 robberies, 3,162 car thefts.

INCARCERATION WORKS

Incarceration may or may not work as punishment. It may or may not provide offenders with incentive to change their behavior. But one thing is clear: By getting criminals off the street, **incarceration lowers crime rates.**

A 1994 study conducted for the American Legislative Exchange Council by economist Michael Block and researcher Steve Twist compared crime victimizations with imprisonment rates over the period 1960-1992. The state-by-state findings showed close correlations between shifting imprisonment rates and general crime levels. Here, for instance, are the results for the period since 1980:

INCARCERATION AND CRIME RATES 1980-1992

	Change in Incarceration Rate*	Change in Violent Crime Rate
10 states with strongest increase in incarceration rates	+ 250%	– 8%
Middle 30 states	+ 98%	+ 26%
10 states with weakest increase in incarceration rates	+ 15%	+ 51%

*Prison population per 1000 violent crimes
Source: American Legislative Exchange Council

The report summarizes its findings this way: "From 1960 to 1992, America became a much more dangerous place to live....While these trends were found in each of the states, the differences among them are also significant....Without doubt, the most powerful explanation for the difference is found in the punishment rate variations.... What we should learn from the experience of the last 30 years is that incarceration works to reduce crime. In order to restore America to the level of public safety it once took almost for granted, criminal justice policy must continue to emphasize incarceration as the punishment for crime, and violent and repeat criminals should be singled out for longer prison terms."

A 1994 study by the RAND Corporation likewise concluded that **surer imprisonment can result in huge reductions in the general crime rate.** Researching the likely effects of California's new "three strikes and you're out" law, the study estimated that **long-term incapacitation of repeat felons will cut statewide crime an average of 28 percent.** That represents 340,000 fewer crime victimizations per year. Prison works.

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CRIME AND RACE

The issue of crime and race is shrouded with myth and misunderstanding.

For instance, the impression growing out of news reports that huge proportions of black teenagers are in trouble with the law is not accurate. National surveys conducted by the University of Michigan find that identical proportions of black and white high school seniors report they have "gotten into trouble with the police" within the last twelve months.

Recently there has been much publicity on the subject of "black on black" crime. Speakers ranging from Jesse Jackson to Sister Souljah have pointed out the perversity of African-Americans victimizing other African-Americans.

It is true that the vast majority of black crime victims are taken advantage of by a black offender. This is because white-on-black crime is almost non-existent. Of the 2.8 million violent crimes committed annually by white offenders, 98 percent are directed at white victims.

Most violent crimes committed by blacks, however, involve a white victim. 60 percent of all rapes, 52 percent of all robberies, and 52 percent of all assaults carried out by black perpetrators are against whites. When it comes to murder, FBI figures show that a black offender is about twice as likely to kill a white victim as the reverse.

INTER-RACIAL CRIMES

	white offender/ black victim	black offender/ white victim
Rape	100	20,204
Robbery	7,031	167,924
Assault	49,800	431,670
All violent crimes	55,301	572,458

Source: U.S. Bureau of Justice Statistics, 1991.

Grim facts like those laid out on the left lead to public impressions like these:

COMPARED TO OTHERS IN SOCIETY, HOW LIKELY TO COMMIT CRIMES ARE PEOPLE IN THESE GROUPS?

	more likely	less likely
Blacks	37	5
Hispanics	30	7
Asian-Americans	15	21
Whites	6	21

Source: Gallup Poll, December 1993. Remaining respondents answered "the same" or expressed no opinion.

GUNS AND CRIME

What proportion of all violent crime do you suppose involves a handgun?

Try 10 percent. Obviously, then, our crime problem is much too various to eliminate by tinkering with the nation's supply of pistols (as has been our main recent strategy).

Besides, there is no demonstrated statistical link between the availability of guns and the rate of crime. Consider recent U.S. trendlines: From 1980 to 1992, the number of firearms per capita increased 18 percent. But over that same period, the proportion of violent crimes carried out with a firearm *fell* 4 percent. What, if not elimination of guns, accounts for this dip in gun crimes? Elimination of criminals, by all accounts. During that same 12 year period, the odds that a violent criminal would be incarcerated increased by 85 percent. Fewer predators in circulation equaled fewer victimizations. Increased availability of guns, though, *did not* result in more gun crime.

According to the nation's foremost expert on this subject, criminologist Gary Kleck of Florida State University, greater availability of guns among citizens who are potential victims probably *reduces* crime. Based on a variety of detailed studies, Kleck estimates that **guns are used in self-defense between 800,000 and 2.5 million times every year,** with the higher figure growing out of the best data. (In 80 to 90 percent of the cases no shots are fired—the mere display of a weapon is enough to scare off an attacker.) This means guns are used more often to foil crimes than to commit them.

Tens of thousands of human lives are saved annually by defensive uses of firearms, according to Kleck. Freedom, peace of mind, and security of property are also enhanced. Gun-owners, National Crime Survey data indicate, are less than half as likely as others to suffer completed burglaries of their homes.

Prison interviews show that **felons fear armed victims at least as much as they do the police. And not without justification:**

FELONS SHOT TO DEATH DURING THE COMMISSION OF A FELONY, 1993

Source: Uniform Crime Reports, FBI.

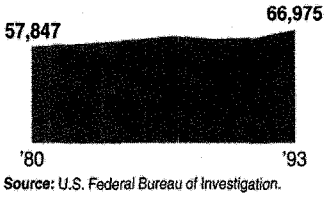
Getting guns into the hands of law abiding Americans is a very effective way of fighting crime.

CRIME INJURIES

A significant number of the crimes committed ever year in this country result in injury. In 1992, 2.1 million people were hurt physically by criminals. Nearly half of these personal injuries were serious. For purposes of comparison, consider that a total of 1.6 million people—half a million less—sustained injuries in motor vehicle accidents in 1992. Fear of car crashes has motivated strong public demand for air bags and anti-lock brakes, stiff laws against drunk driving, and so forth. Yet crime is an even bigger threat.

Police officers face the physical dangers of crime most directly. In 1993, 66,975 policemen and women were physically assaulted. Since 1980, a total of more than 2,100 officers have been killed in the line of duty.

POLICE OFFICERS ASSAULTED ANNUALLY



Source: U.S. Federal Bureau of Investigation.

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THE MYSTERIOUS 10 PERCENT

Anyone who claims there are no divergences between men and women has got some explaining to do this month—because *Indicators* has got the goods to prove that sex differences are alive and well.

We were recently interested to learn, for instance, that it's mostly men who are frittering away time sending notes and playing games in all those on-line computer forums. Just 10 percent of the U.S. subscribers to services like CompuServe and the various Internet computer hubs are women.

Remember that vital 10 percent rate:

10% women, 90% men.

Then we happened across another astonishing 10 percent datum: fully 10 percent of all the fat consumed in a day by women age 19 to 50 comes from...yes, SALAD! More specifically, from the dressing on all those salads. Now, my source on this (*Salad,* by Amy Nathan, Chronicle Books, page 54) didn't give a comparable figure for men. But I'm willing to go out on a limb and bet that men don't get anywhere *near* ten percent of their daily fat from salad. From nachos or hot dogs, maybe. Let me throw out here that, as a highly trained scientific investigator, the vital food statistic I'd *really* like to see is what fraction of the average woman's diet is made up of chocolate bars. I suggest that the first person to invent a chocolate salad dressing marketable to women age 19 to 50 will likely retire to the Cayman Islands at a very young age.

To summarize:

Salad dressing 10%, rest of life 90%.

Our search next uncovered a major survey of married women who use a different last name from their husband. Guess what proportion of American wedded womanhood they represent? That's right—10 percent. (I hope you're divining a pattern here.) The details are kind of interesting. Five percent of the differently-named, it turns out, used hyphenated tags. Three percent use hybrid alternatives like Hillary Rodham Clinton. And two percent use their maiden names exclusively. That all sums to:

10% (but reaching 21% among grad-school types).

The final deci-logical revelation in this cutting-edge tour of sex differences research concerns exercise. Bleary-eyed from sitting at the keyboard too long chatting on-line, a bit bloated from all the salad dressing and chocolate they've downed, but somehow feeling frisky and confident about their respective last names, many women and men end up wanting to exercise at some point each week. But when they get up, or lie down, to work out, they often do rather different things. As in:

	men	women
Gardening or yard work	31	22
Weight lifting	14	4
Jogging	12	5
Basketball	9	1
Aerobics	3	10

Source: American Demographics.

The idiosyncratic item here is the one for aerobics, where women exercise the pants off men. And please observe once again:

The vital 10 percent. (By the way, who are those aerobic males?)

HAS FEMINISM MADE LIVES HARDER?

Three decades after the rise of contemporary feminism, the verdict on the movement among American women is decidedly mixed. Not only do 67 percent of women refuse to describe themselves as feminists; many actually blame feminist nostrums for making life more difficult and less satisfying.

Fifty-one percent of women told Gallup in 1994 that the women's movement is "hurting" relations between the sexes. Asked in a late-1993 Gallup poll, "Do you think the changes brought about by the women's movement have made women's lives easier or harder than they were 20 years ago?", only 47 percent of all female respondents answered "Easier." 48 percent replied "Harder." Asked how men's lives have been affected, just 30 percent of women said things have gotten easier, while 60 percent asserted life has gotten harder.

Some other specific polling responses on this subject:

HAS THE WOMEN'S MOVEMENT MADE IT EASIER OR HARDER...	
For marriages to be successful?	
Easier	15%
Harder	76%
For parents to raise children?	
Easier	14%
Harder	82%
For women to combine jobs and family responsibilities?	
Easier	30%
Harder	66%
For families to earn a comfortable living?	
Easier	47%
Harder	50%

Source: Gallup Poll, 1990.

SNIPS

✂ **The Marrying Kind**—Talk show host Larry King recently announced he is going to marry. Again. This will make number 5. That's the same total racked up by author Saul Bellow. (But he also has a Nobel Prize, while King does not, as of yet.) Tonya Harding has no medal or prize or talk show or anything—but she does have 6 fathers. Or at least her mother has married that many times. Now that Elizabeth Taylor has settled down it's good to know that someone in this country is keeping the wedding bells ringing.

✂ **Runs in the Family**—At the start of some NASCAR auto races these days, more than a quarter of the field is made up of brothers. There are three Bodines, three Wallaces, and two each from the Labonte, Waltrip, and Burton clans. In addition to these siblings, several father and son pairs also race.

✂ **Big Hazard**—According to an official of the American Zoo and Aquarium Association, an average of one elephant keeper is crushed to death every year in the United States. The primary hazard: Trimming their toenails.

TASTE BUDGETS

Farmers, Be Thankful for Breakfast—The globe's top four food crops in cash value are rice, milk, wheat, and bananas.

Paprika Producers, Be Grateful for Hungarians—A paprika-adulteration scandal was big news in Hungary recently. No wonder: We divided that nation's total consumption of the red powder by its population and found that every man, woman, and child in the country gulps an average of one pound per year.

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two views

What Should Congress Focus on During Its Second 100 Days?

Amitai Etzioni and Ed Crane Have Two Views

Three out of four Americans (76 percent) believe that our society is morally decaying. A study of voters by the Wirthlin Group shows that 60 percent of voters feel that the problems facing the country are "primarily moral and social in nature," as opposed to "primarily economic in nature." The growing appeal of the Religious Right reflects the yearning of Americans to address values issues (for which "family values" and "culture" have become code words). While so far cultural conservatives have largely supported the economic (laissez-faire) conservative agenda (cut government, taxes, deficits, regulations) there are signs that cultural conservatives feel that "their" issues are being neglected.

One may say that this matter concerns only Republicans, but Democrats too face a growing rift between liberals who focus on jobs, minimum wages, workers rights, and entitlements and the demand from New Democrats to also attend to values issues. Beyond politics, the future of America as a civil and ethical society is at stake. The all-too-familiar litany of social problems—violent crime, drug abuse, illegitimacy—reflect a fraying of the social fabric and of core values.

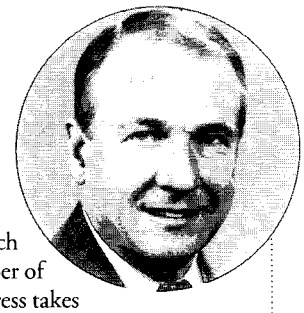
None of this suggests that the agenda for the next hundred days and beyond should be one of government-imposed values. The moral reconstruction of America is a matter of changing habits of heart, mind sets, values, and social institutions—and, to a limited extent, public policies. Congress, the president, and presidential candidates can rough out an agenda, frame issues, and focus the public dialogue on what the proper direction of the American society ought to be.

The tenor of the dialogue will deeply affect the direction

CULTURAL CONSERVATIVES FEEL THAT "THEIR" ISSUES ARE BEING NEGLECTED.

in which the society will evolve. If one turns first to the most divisive issues, pointing fingers if not waving fists, bashing and demonizing, one escalates the cultural war and aggravates the polarization of America. One also preaches to the choir rather than bringing new people into the fold. We need to remind one another, to draw on a religious language, that nobody is beyond redemption; and that we are offended by sin but seek to reach out to the sinners.

Above all we should have faith in faith, win people over to a responsible way of life rather than try to beat them into it. We should not try to set back the clocks to the fifties; we need to recognize the duties of both parents to their families rather than



The most important issue the 104th Congress could concentrate on during its second hundred days is the legitimacy of much of what it does. An outgrowth of the effective hegemony over Congress that Democrats have had since the New Deal has been a growing indifference toward, if not disdain for, the Constitution of the United States. Yet ours is a government of delegated, enumerated, and strictly limited powers.

If we were to adhere to the Framers' vision of a restricted role for the federal government in social and economic affairs, questions of economic growth, widespread prosperity, proper values and social harmony would not be viewed as political issues in the first place. They would also represent far less in the way of problems than they are today.

The Tenth Amendment reads in its entirety, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Pretty straightforward, as is most of the Constitution, which was written to be understood by the layman, and not to be divined by scholars or high priests. One is hardpressed to find in the Constitution enumerated powers for a wide range of current federal initiatives, including welfare programs, economic regulations (outside the police power to deal with torts), or even the War on Drugs (it took a constitutional amendment to have a War on Alcohol).

Each member of Congress takes an oath to uphold the Constitution. During much of this nation's history that oath meant something and congressmen would routinely vote against a measure solely on the grounds of Congress lacking constitutional authority to pass it. Today, it's common for a member to express "grave constitutional concerns" about a bill but then vote for it, stating that the Supreme Court will sort out the constitutionality. That is an abrogation of congressional responsibility. During the second hundred days, the 104th Congress would be doing itself and the nation a service if created a bipartisan Constitutional Caucus to review the legitimacy of pending legislation.

In addition, it could profitably spend the entire 100 days repealing legislation of questionable constitutional authority that has been doing positive damage to American society.

The solicitor general recently claimed before the Supreme Court that the Commerce Clause grants Congress "plenary" power to pretty much do what it wants. It does no such thing. The Commerce Clause was not intended to regulate business, but to "make regular" trade between the states that had been disrupted by protectionist state laws under the Articles of Confederation. It was a free trade clause that has been so distorted by the federal courts over the decades that there is now virtually no aspect of our lives that Congress

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demand that women stay home to take care of children. We should find a replacement for affirmative action without returning to an age when women and minorities were discriminated against. Nor can we allow the young, or for that matter anybody else, to become the next silent generation; we should respect rights as we demand that everyone live up to their responsibilities.

We need a grand dialogue about what our new moral direction ought to be. Such dialogues do lead to a change in direction as we have recently witnessed in other areas, from the way we treat the environment to our growing consensus about the need to scale back government.

There are several legislative items that can nourish such dialogues, send a message, and advance the needed cultural changes. To help shore up the family we could:

• *Establish "children first" divorce policies.* Congress should draft a new model divorce law requiring that divorce settlements set aside assets needed to ensure the economic well-being of the children (to be controlled by the custodial parent until the children come of age). Any remaining assets may be divided between the two parents. This would also discourage many from rushing into divorce.

• *Establish a small tax credit for pre-marital counseling.* Many churches require couples to undergo pre-marital counseling. Congress may recognize the value of this trend by granting a $250 tax credit to couples who participate in such counseling, signaling the merit of stronger marriages by encouraging people to enter into them more responsibly.

• *Require parental involvement in child care.* Child-care centers that receive public assistance should be required to demand parental involvement as a condition of accepting children, in the form of a set amount of hours of volunteer service each month. Among other benefits, this will serve as a quality control, exposing parents first-hand to any problems in the care their children are receiving.

• *Protect communities' jurisdiction.* Among the new measures we should support is a federal law that no community will be denied its right to enclose itself, through such measures as check points and gates at the entrances to communities. Because communities are the sociological basis for our moral fabric and because they occur in public spaces rather than in private homes and cars, we must ensure that these are safe and not taken over by any one group.

• *Encourage transitional bilingual education.* It might make sense for instruction in one's native language to be available to new immigrant students, but time limits should be placed on such programs to prevent young people from completing 12 school years without ever commingling with students from other backgrounds and being introduced to mainstream teachings.

• *Make English and civics lessons widely available.* Many legal immigrants would like to learn English and pursue citizenship to gain inclusion in mainstream society, but find no help when they try. Congressional hearings could flag the need. Voluntary associations are particularly suited to take it from here.

Many more social reforms need to be adopted, to which we can turn once we realize that as important as the economy is, we do not live by bread alone. Those who implicitly hold that economic forces drive social and moral ones should revisit former communist countries to see both the fate of societies built on such theories and the devastating effects of a moral vacuum left in their wake.

Amitai Etzioni is the author of The Spirit of Community, *and University Professor at George Washington University.*

won't try to control under this alleged authority.

Business regulations are estimated to cost the American economy some $600 billion a year in compliance alone. That speaks nothing of the enormous opportunity costs resulting from the government proscribing entrepreneurial initiatives via regulation. The market, after all, is a discovery process. Limiting the choices available to businesses is to short-circuit that process. For instance, when interstate trucking was deregulated most observers predicted lower rates would result from increased competition. That is, in fact, what happened. What was not anticipated is that even greater savings—on the order of magnitude of tens of billions of dollars per year—resulted from the just-in-time inventory adjustments that more flexible shipping schedules made possible.

But even if the extensive federal regulation of business were somehow constitutional, the manner in which Congress deals with regulation is illegitimate from a statutory standpoint. The Constitution nowhere grants Congress the power to delegate lawmaking to unelected bureaucrats. Yet that is exactly what it does when it passes sweeping, ill-defined legislation like Superfund and other environmental laws that give the EPA virtually unlimited discretion to write laws. A hundred days of repealing legislation by bureaucratic edict would be well spent.

Turning to values and family issues, nothing has done more to tear down moral standards and traditional values in America than the welfare state. The constitutional justification for welfare legislation, ranging from AFDC to food stamps, has typically been the General Welfare Clause. But, again, that clause has been grossly misinterpreted. It provided that laws that were passed be passed to promote the well-being of Americans *generally.* The idea was precisely to avoid the faction-specific legislation

A HUNDRED DAYS OF REPEALING LEGISLATION BUILT ON BUREAUCRATIC EDICT WOULD BE WELL SPENT.

that federal welfare laws all too often represent.

The Framers intended to create a government with authority to act within a small island of political society surrounded by a vast sea of civil society. Most of what we now call the private sector was meant to be beyond the reach of state action. And the fact is that the growth of economic, family, and "value" problems have increased in concert with our growing disregard for constitutional constraints on government.

In any case, there is a growing consensus among social conservatives and economic libertarians that getting government out of our lives should be a high priority in solving both social and economic problems. As Don Eberly of the National Fatherhood Initiative puts it, "Honesty in politics admits to the limitations of politics to treat the deepest roots of our moral and social crisis." And economic liberation is hardly inconsistent with solving social problems. Eliminating the capital gains tax would do more for the family, for instance, than tax credits for children.

The elections on November 8 signaled a sea change in U.S. politics. It could be argued that Americans were rejecting the New Deal as much as they rejected Bill Clinton. Before those anti-government ideas find adequate expression, however, Congress must stand back a few paces and take stock of what its proper role is within our constitutional framework of limited government.

Edward H. Crane is president of the Cato Institute in Washington, D.C.

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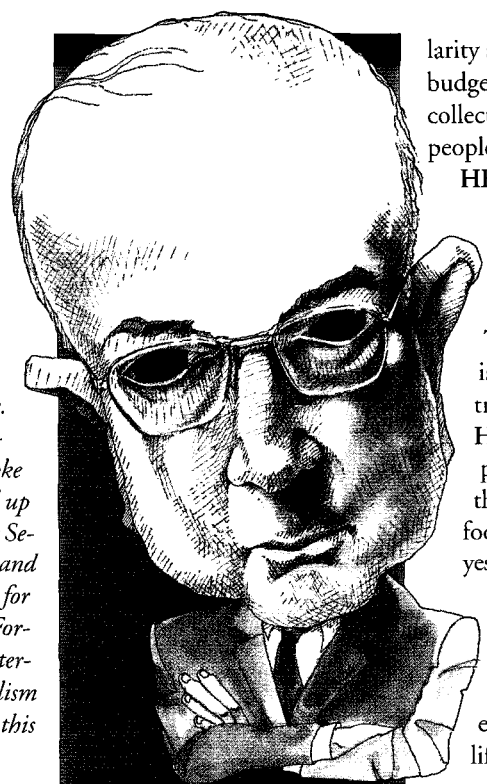
"Live" with TAE

THE NEW CHAIRMAN OF THE SENATE FOREIGN RELATIONS COMMITTEE IS ESTABLISHMENT BOGEYMAN JESSE HELMS. COME MEET THE MAN BEHIND THE IMAGE.

Jesse Helms

When Senator Jesse Helms talked with a reporter from the Charlotte News and Observer *and mentioned Bill Clinton's unpopularity on military bases in the state, he illustrated his point with an anecdote about a Southern sheriff who had just been defeated in an election. "He had this big fella with him, about 6-foot-7 and 270 pounds," said Helms. "Somebody asked, 'Who's that?' The sheriff answered. 'Anybody who can't get more votes than I did better have a bodyguard.' " Helms then added: "Mr. Clinton better watch out if he comes down here. He better have a bodyguard." The* News and Observer *ran just the Clinton reference without the joke that preceded it, and the Associated Press picked up the story. Soon the media were reporting that the Secret Service was investigating Helms' comments, and the editorial page of the* New York Times *called for Helms to step aside as chairman of the Senate Foreign Relations Committee. In a wide-ranging interview conducted by Phillips Foundation Journalism Fellow John Meroney, Helms recently discussed this incident and other controversies.*



I've never contended that I'm free of error—sure I've made errors—but I've never compromised once. And I never will.

TAE: The media attacked your statements about President Clinton. It started when Fred Barnes asked you whether Clinton was up to the role of commander-in-chief.

HELMS: I gave myself time to think about it and I said, "Well, you've asked me an honest question, I'll give you an honest answer: No."

TAE: Then came the "bodyguard" quotation.

HELMS: Imagine if the president had reacted with humor over this whole thing, if he'd said, Look, Senator Helms is a conservative, and I'm not regarded as a conservative but he's been down here with his wife, he's been down here with his granddaughter, he's a nice guy, and I'm sure he didn't mean he wanted to get me shot and why don't you ask him about that. Clinton would have blown me out of the water. Instead, he was solemn and said the comment was inappropriate and unwise. Gosh (laughs).

TAE: You talked about the president's popularity among the armed forces, how the defense budget has been cut and men in uniforms are collecting garbage in Haiti. How do military people feel about this?

HELMS: Well, they despise him. We've had something like 60,000 telephone calls, letters, and faxes since that incident and it's delightfully terrible trying to handle them because 80 percent are favorable.

TAE: Clinton says that the United States is prepared to send as many as 25,000 troops to Bosnia. What's your response?

HELMS: I have never been in favor of putting one American in harm's way over there. Compassionate aid where you get food and medicine to children and others, yes, but that conflict is not going to be resolved by us. The countries in that area have got to get involved, and I don't care if we send 6 million people over there to be put in that meat grinder, it still wouldn't put an end to it. I don't want to lose one American life there, not one. Every time we've saved the world for democracy nobody cares. All we did was run up a big national debt. We are now in a position where I think NATO and others ought to do the job. It's their part of the world.

TAE: The president has shifted his position on this a number of times. He originally took almost the same position you just articulated, that there's no way we should send troops over there.

HELMS: Suffice it to say he's been all over the lot. I never saw such vacillation in my life.

TAE: How far do you think the United States should go to guarantee the security of the Baltic states and Eastern Europe?

HELMS: Same thing. We can't do it. We've got three divisions that aren't combat-ready right now. We haven't got the personnel. Clinton has diminished the strength of our national defense and so even if we knew it was the right thing to do, we are not equipped to do it, thanks to him.

TAE: If we were in a position to do it, do you think there's a philosophical reason that we

Illustration by Lucinda S. Levine

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shouldn't be involved?

HELMS: I'm not an isolationist—don't think I am, depends on who's defining it—but we shouldn't run around and try to police the world because we don't have the resources to do it. So that takes care of all the philosophical arguments right there. Besides, the other countries with resources and defense capability, they're virtually sitting on their hands.

TAE: Should the United States maintain its base in the Persian Gulf?

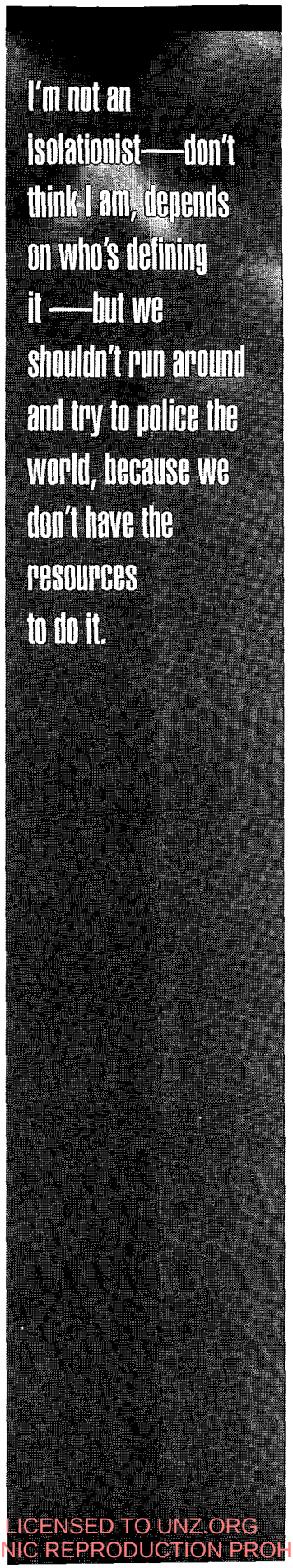
HELMS: Yes, for the time being. We've got a vital interest there. We've gotten ourselves into great difficulty because we let our own oil production go to pot so we've got to have oil from somewhere. We certainly could not allow Iraq to do what it intended to do first to Kuwait but primarily to Saudi Arabia.

TAE: What is your view of aid to Israel?

HELMS: I don't think we ought to give aid to anybody except when it is specifically in the interest of the United States. Israel is criticized a great deal because it gets a substantial amount of money. What I have proposed time and time again is that Israel, like others, ought not to automatically receive U.S. foreign aid. But the United States should have a careful assessment of what it would cost to defend our interests in that region if there were no Israel. How many battleships, how many aircraft carriers, how many airplanes, all the rest of it. I think you'd find an enormous cost. We've got to protect our interests over there or we'll have a catastrophe if Iraq or anybody like Iraq gets control of all that oil, and that's within the realm of possibility. I would rather compensate Israel for the service it renders to the security of the United States. I've said that in Congress many times, and I'm going to propose it again.

TAE: Have you ever been accused of anti-Semitism for taking that position on Israel?

HELMS: Well, sure, and I've been charged with being a "Jew lover" by an anti-Semitic newspaper. Back in 1984, some Jewish citizens of North Carolina had been persuaded by Gov. Jim Hunt's campaign people to write letters to the newspapers condemning me for allegedly being anti-Semitic. Sen. Chic Hecht said, "Jesse, my brother and I would like to introduce you to the Jewish leaders of New York City. I want you to have breakfast with them and let them meet you." Less than a month before Election Day I went to New York for the breakfast. Thirty-nine Jewish leaders had been invited and 39 came at seven o'clock in the morning. They wanted to see this monster. They were polite but not cordial. I said,



Let's talk a little about the things that you know we agree on, and I went down the list. I commended them on their family values. I explained my idea about aid to Israel as I just related it to you. They relaxed and then started a very animated discussion. The breakfast wound up with me talking about moral principles. I never will forget it, they all came up to me and it was just like old home week in eastern North Carolina. One lady in particular, tears were streaming down her cheeks. She said, "I want to apologize to you." I said, "Well, why?" and she said, "Well, I just have actively disliked you, and I was unfair to you, and I'm on Jim Hunt's advisory committee and I'm going to call him as soon as I get to my office and tell him to take my name off the stationery." I never had any more trouble.

TAE: What foreign aid needs to be reexamined?

HELMS: It might have been 15 years ago that I had a letter from some fellow in North Carolina who said, Jess, how much have we spent on foreign aid since its inception in 1946? He asked me to consider that every penny of the money we've given away has been borrowed money, and therefore one must factor in the interest paid on that amount of money. Well, it was an interesting question, and he was right. I had my staff investigate it and there were so many figures that we had no capability to add them up. I told the staff to factor up the interest rate for each year an appropriation was made and roll that over. Finally they got the job done. I said, I want to see the bottom line, and it was about $2 trillion, I think.

TAE: That was in the late '80s?

HELMS: No, I think it was earlier than that. I prepared a statement and delivered it in the Senate, and nobody paid any damn attention to it whatsoever. We're giving away borrowed money and we've got to stop. People don't like it and the government can't afford it.

TAE: What is your position on humanitarian intervention in places like Haiti and Somalia?

HELMS: It depends on how you define humanitarian, but if you're talking about keeping them from starving to death, and that we try to encourage the rest of the world to help relieve the misery, yes sir, I would favor that almost anywhere because human misery is human misery. But I don't want to send armed forces to try to solve it because that just increases the misery.

TAE: There are some who say emphasizing issues like abortion, homosexuality, and school prayer marginalizes Republicans and stereotypes the party as being extremists. What do you say?

HELMS: Well, I guess I have to go back to the founding of the republic and lay down some

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of the principles enunciated at that time. Are these folks saying we've got to lay aside moral principles in order to be good Republicans? As for school prayer, I may be the last of the Mohicans but I grew up when there was school prayer. It was meaningful, it did set a standard, and it told us this was right and that was wrong. Those who say otherwise, they just had a different experience. Most people I hear from agree with me and that's why 75 to 80 percent of the people say they want school prayer restored. Now if that's extremist, then I'll have to live with that. I'm extremely interested in the restoration of the moral and spiritual principles of this country.

TAE: What about Republicans who say the party cannot repeat the 1992 convention when the party seemed very hard-line on these issues?

HELMS: I don't know who "they" are. If you're talking about the John Chafee [U.S. Senator, R-R. I.] type or someone like that, I'll ask you: Who elected Ronald Reagan? Moral and spiritual principles do matter, and those who try to banish them from the Republican agenda are making a serious mistake.

TAE: Has the Republican Party been tough enough opposing some of the appointees of the Clinton administration?

HELMS: No, sir. I think they've totally ignored the advise-and-consent requirement. If we're going to be a lapdog for any president, conservative, liberal, Democrat, Republican, Druid, or whatever, just eliminate this from the agenda of the Senate. The Senate is required to pass judgment, and each senator has to take a position based on what we think is right or wrong for this country. And, no, I don't think a great many Republican senators have paid any attention to the guts and feathers of their responsibility under the Constitution. Some senators say to me, I don't like her either, Jess, but the president is entitled to his nomination. I say, to Hell with that. I didn't agree with that when Ronald Reagan was president, and I opposed some of his nominees because I thought they were bad for the country. Lord knows I did it with George Bush. I think we ought to speak out no matter who's president.

TAE: Often you're left standing alone. Why?

HELMS: Well, I guess there as many reasons as there are senators. I will tell you this: on nominations or on amendments that I have offered, without fail I have one or more senators who will come in the cloakroom and say, "Jess, that was great and I wish I could have voted for it" —I heard that on the Joycelyn Elders nomination, for instance. I say, "Well, why didn't you vote for it?" Their excuse: "The media would have given me hell back home." I tell them, "Well, what do you think they do to me?"

Without fail I have one or more senators who will say, "Jess, that was great and I wish I could have voted for it." I say, "Well, why didn't you vote for it?" Their excuse: "The media would have given me hell back home." I tell them, "Well, what do you think they do to me?"

TAE: Newt Gingrich recently said the Republican Party should tolerate homosexuality.

HELMS: I was astonished. I'll say this about Newt. Newt is just as articulate as he can be, and in philosophy, he is certainly right more than he is wrong, but I have the impression that occasionally he ought to leave at least one thought unexpressed.

TAE: Is the Senate going to be able to keep up with the enormous agenda in the House?

HELMS: The agendas won't be identical but we don't have any choice but to do what we promised the American people. If we don't, then the people could very easily reverse what happened on November 8. I think the people didn't vote for Republicanism so much as they voted for conservatism. People here are beginning to understand Jefferson's admonition that the least government is the best government. We have the perfect opportunity to do a lot of things that wouldn't have been even remotely possible 10 or 15 years ago, and we better take advantage of it, honestly, forthrightly, and in detail.

TAE: Who are your heroes?

HELMS: Jefferson has always been my hero.

TAE: You've mentioned former North Carolina Sen. Sam Ervin on occasion. Was he a mentor?

HELMS: In constitutional matters. He voted for some things for which I never would have, but Sam Ervin was my friend. When I was in my late twenties, I got to know him. By the time he was appointed to the Senate, I had developed a fond friendship with him. Even after he left the Senate, Ervin would call me—he missed the Senate something awful—sometimes four or five times a week. I'd call him every time I had any question, and sometimes I called him just to say hello because I loved the old guy. Ervin was not only in my judgment a good senator, he was a damn good fellow, and a good raconteur. I liked him.

TAE: You also used to listen to Winston Churchill's speeches in your car.

HELMS: I've got a little album of four of his tapes. Churchill was all over the lot philosophically, but I choose to remember when I agreed with him (laughs). I guess we all do that. I think Churchill was one of the most remarkable men in history.

TAE: If you woke up tomorrow morning and Frank Rich of the *New York Times* had written a column praising you as being a thoughtful and constructive politician—

HELMS: (laughs)

TAE: —what would be your reaction?

HELMS: Well, do you remember the Redd Foxx character from television? When he'd get

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excited, he'd hold up his arms and say to his deceased wife, "Elizabeth, this is the big one, this is the big one, I'm coming to join you." I'm like that: I'm afraid I'd have a heart attack. But I'll never have a heart attack on that cause.

TAE: What is your proudest achievement?

HELMS: That's asking a guy to boast and I'm not a boastful man so I'll use somebody else's words. The compliment I most often hear and which is meaningful to me is, you're the one guy who has gone to Washington and has done what he said he would do. I guess I may have the reputation of having kept my word so I'm proudest of that. I've never contended that I'm free of error—sure I've made errors—but I've never compromised once. And I never will.

TAE: What media sources do you prefer?

HELMS: I know Peter Jennings very well, and he's not particularly obnoxious. Dan Rather has just been outrageous at times. And this Gumbel guy on NBC in the morning, he hates me because once when I was on *The Today Show* he was telling me off about something and I said, "You need to come down here and let me teach you some economics." And that was the last thing said on the segment (laughs). I watch CNN for the news as much as anything, read the *Washington Times* and 8 or 10 other papers each day. Sometimes in the cloakroom I'll turn through the *New York Times.* I like the editorial pages of the *Wall Street Journal.* Vernie Royster, the editor emeritus, is one of my best friends.

TAE: I understand you have a plaque in your office that says, "The Lord doesn't require you to win. He just expects you to try."

HELMS: My father told me that and my staff gave it to me for Christmas, the first year I was in the Senate. It's on the wall and will stay there as long as I'm alive. When I was a boy, my father, who was the kindest man I have ever known, came in one evening and said, "Son, I haven't seen you smile for a day or so and you're my smiling boy. Is there anything troubling you?" I told him about a contest I was in at school and it appeared as though I wasn't going to win. He looked puzzled and asked me, "Well, have you done the best you can?" I said, "Yes, sir, I've done the best I can but I'm not going to win." That's when he said: "Son, remember the Lord doesn't require you to win. He does expect you to try." I don't know whether that was original with him—probably wasn't—but he was a pretty good philosopher to a boy.

TAE: You once talked eloquently about seeing your father in the Senate gallery with tears in his eyes when you were being sworn in.

HELMS: Yes, they were coming down (laughs) his face. I guess he was so amazed about his boy being in the United States Senate. He was a good man. The night before his funeral, the weather was terrible. It was very cold—misting and sleeting and raining. I said, Well, we won't have many people at the wake, but people started to come and, my Lord, they came for about two hours. People were lined up around the block. A simple police chief and fireman who went to the fifth grade. Now that's what you call a success.

I think the people didn't vote for Republicanism so much as they voted for conservatism. People here are beginning to understand Jefferson's admonition that the least government is the best government.

TAE: Is there going to be a serious effort to dismantle the National Endowment for the Arts?

HELMS: I hope so.

TAE: You'd be in favor of that?

HELMS: Yes. The success of such a measure depends on how many faint-hearted fellows we've got. People from the NEA say their budget is $168 million and there have only been something like seven cases of obscene art. They use figures just out of their hair. Nobody knows how many cases there have been. We only know the ones that have been caught.

TAE: Will you lead efforts against the NEA?

HELMS: I think a lot of people are in line to work on that, and I'll be glad to help. I like NEA Chairman Jane Alexander. I think she has tried her best to bring the NEA under control. She's a nice lady, and very intelligent. But why shouldn't corporations and individuals who want to support that sort of thing do it? At the very minimum I think we ought to cut out awards and grants to individuals. Just give them to school groups so young people will become interested in the arts of one kind or another. This business of financing Serrano and all the rest, the taxpayers aren't going to put up with that.

TAE: Are you ready for the media coverage that comes along with being chairman of the Committee on Foreign Relations?

HELMS: Well, I don't know that there will be all that much. A chairman can't do anything unless he persuades his members, and I've got to persuade all the Republicans, and if I lose a Republican I've got to regain a Democrat. That's a pretty liberal crowd on the other side. I can prevent things such as treaties from being considered.

TAE: Are you an "America Firster"?

HELMS: I don't think America ought to be isolated, but the interests of the American people ought to come first with anybody in the Congress of the United States. If that makes me an "America Firster," sure.

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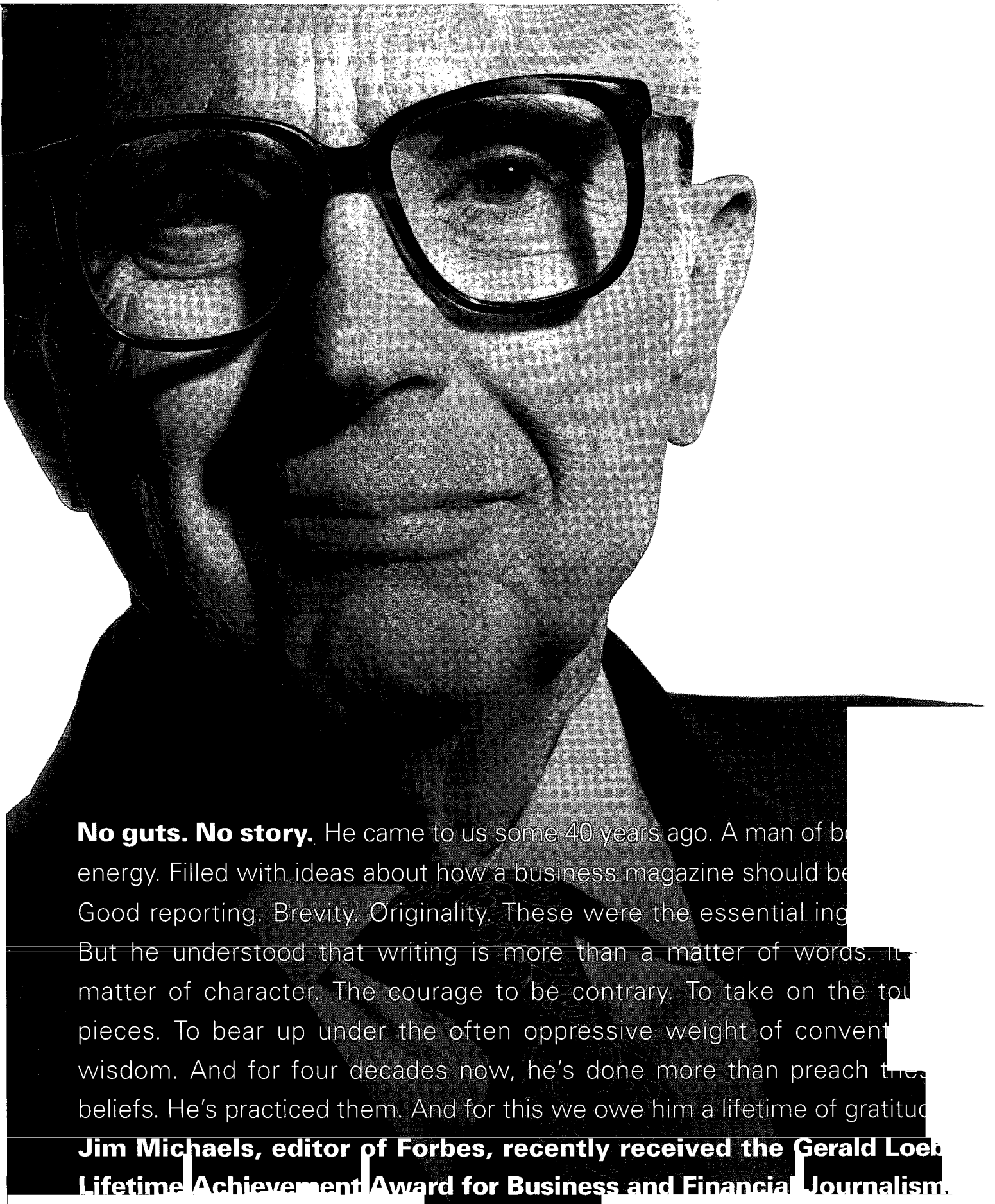

No guts. No story. He came to us some 40 years ago. A man of b
energy. Filled with ideas about how a business magazine should be
Good reporting. Brevity. Originality. These were the essential ing
But he understood that writing is more than a matter of words. It
matter of character. The courage to be contrary. To take on the tou
pieces. To bear up under the often oppressive weight of convent
wisdom. And for four decades now, he's done more than preach the
beliefs. He's practiced them. And for this we owe him a lifetime of gratitud

Jim Michaels, editor of Forbes, recently received the Gerald Loeb Lifetime Achievement Award for Business and Financial Journalism.

Forbes

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Death of an Officer

In the face of the ultimate loss, a police officer receives the gratitude of a poor neighborhood

Gaye Wagner

When Officer Ron Davis was shot in the dark, foggy pre-dawn of September 17, 1991, I momentarily lost my perspective on why I've chosen to do what I'm doing. For a time, I focused on just one dimension of my job as a police officer: the possibility of a violent death, for me or people I care about.

Despite the graphic slides and blow-by-blow descriptions of on-duty deaths that we sat through in the Academy, I still must have believed deep down that I, and those alongside me, were invincible. Then the faceless gloom of mortality took the place of a fallen comrade. The streets became an evil, threatening place.

Before I felt the blow of a co-worker's death, I looked on each shooting, stabbing, and act of violence as any rubbernecker would—with a certain detachment. I was living the ultimate student experience: Social Wildlife 101. What better way to understand problems of crime and justice than to immerse yourself in the 'hood. I was there, but I was still an onlooker peering inside some kind of fence. I watched, probed each tragic or bizarre incident with curiosity, and pondered the problems I faced.

With the death of a comrade, I understood that I was inside the fence. I'm no longer an outsider looking in. The shadow of death stalks all of us who walk in the valley of drugs, guns, alcohol, hopelessness, and hate. Police, addicts, hustlers, parents trying to build futures for their children, good people struggling—we all risk falling into the firing line of desperation, apathy, or corruption.

For a while, my response to the new threats I saw around me was to treat all people like they were the enemy. Since an "us" and "them" mentality can be a self-fulfilling prophecy, some of my contacts with people were a little bumpy. Normally my approach is courteous, in one of several variations: either as sympathizer, "just the facts, Bud" chronicler, or all-ears naïve airhead who can hardly believe that you, yes you, could do a dastardly deed... ("how did this all happen my friend?").

But suddenly I just wasn't as enamored with this job as I had been. Let's face it, a sense of contributing to society, the excitement of racing cars with lights and sirens, helping folks, and the drama of never knowing what's next place a poor second to living long enough to count grey hairs and collect Social Security.

I had trouble getting an impersonal all-units bulletin about someone I knew out of my head. I read these bulletins every day, but the words now stung: "187 Suspect...Arrest in Public for 187 P.C.—Homicide of a Police Officer... Suspect Description: Castillo, Arnaldo...On September 17, 1991, at 05:15 hours, Castillo was contacted by two officers in regard to a domestic violence call. As

Photo courtesy of The National Law Enforcement Officers Memorial
photographer Larry Ruggeri

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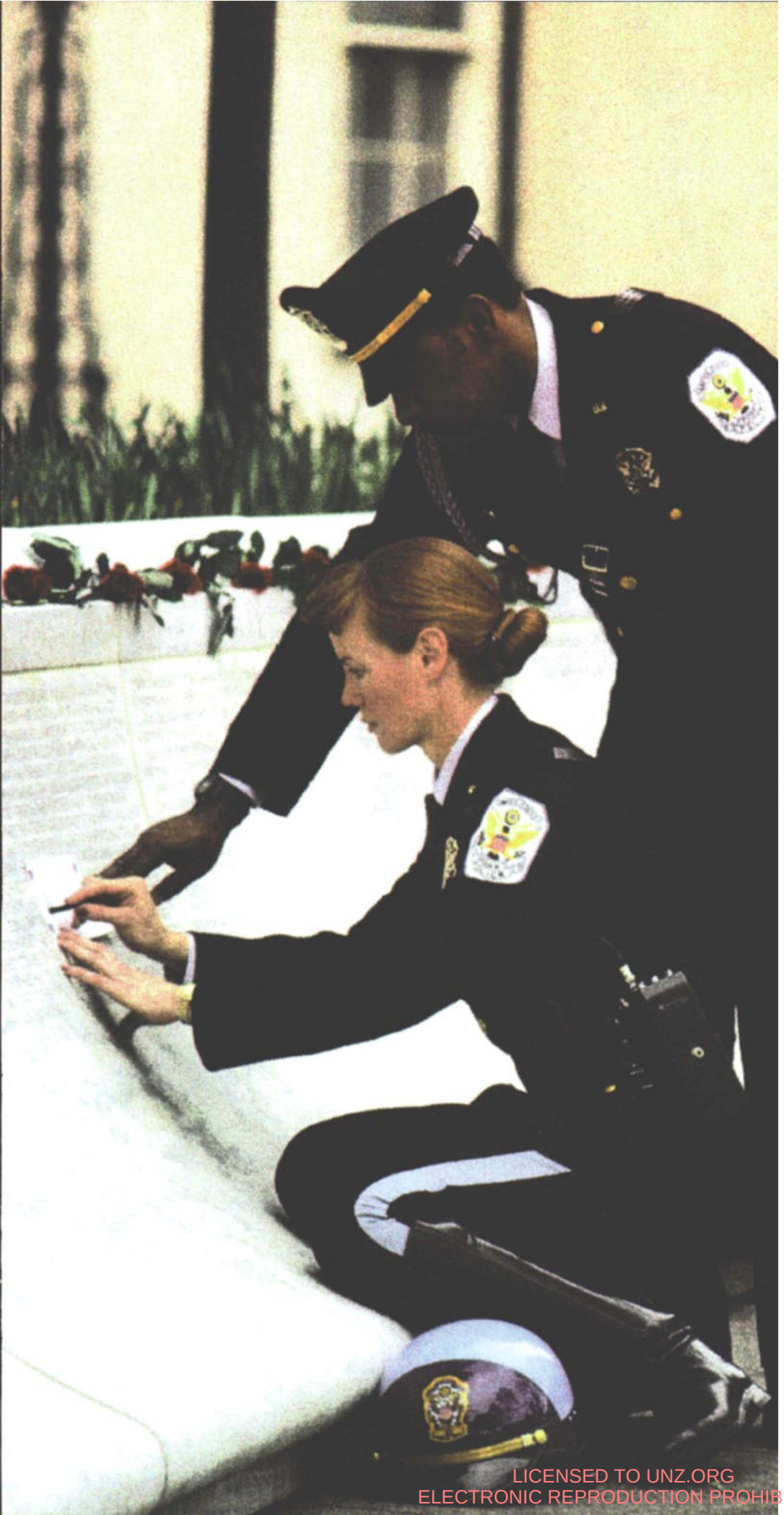

Police Officers Killed in the Line of Duty 1994

Berisford Wayne Anderson ❧ Julio Andio-Rivera ❧ Robin Ann Arnold ❧ Troy M. Babin ❧ John L. Bagileo ❧ Roy L. Bassett ❧ Robert L. Bittick ❧ Larry D. Bland ❧ Thomas D. Bond ❧ Ted Brassinga ❧ Melvin Paul Brown ❧ Michael Brown ❧ Robert Buitrago ❧ Daniel Calabrese ❧ Raymond Cannon ❧ Troy Douglas Carr ❧ Shane Chadwick ❧ Mark S. Charbonnier ❧ Ronald L. Coen ❧ Willis Cole ❧ Roger Coursey ❧ Phillip Curry ❧ Henry J. Daly ❧ Jackie Lamount Daniel ❧ George Dawson ❧ Clarence Wayne Dean ❧ Nicholas R. Demutiis ❧ Robert J. Desormeaux ❧ Clifford Dickert ❧ David C. Douglas ❧ Byron S. Egelski ❧ Terry J. Emerick ❧ Estevan Escobedo ❧ Edward M. Evans ❧ Richard E. Fass ❧ Ronald Wade Feldner ❧ Frank Fernandez ❧ Fred Feuser, Jr. ❧ Manuel H. Fields ❧ Christopher Figueroa-Glanville ❧ Scott Flahive ❧ Joseph Friel ❧ Guy Patrick Gaddis ❧ Arnold C. Garcia ❧ Thomas J. Giunta ❧ William G. Patterson ❧ Phillip Hochstetler ❧ Phillip Curry ❧ James Joseph Silva ❧ Jeffrey S. Parola ❧ James Edward Walch ❧ John L. Bagileo ❧ Robert J. Mortell ❧ Berisford Wayne Anderson ❧ Thomas J. Giunta ❧ Dennis Glivar ❧ Terry L. Griffith ❧ James L. Guelff ❧ Cecil S. Guerry ❧ Craig Michael Hanking ❧ Terry Hanson ❧ Christy Lynne Hamilton ❧ John P. Harris ❧ Gregory Lee Hawks ❧ Elizabeth Haynes ❧ David M. Healy ❧ Gary Wayne Heath ❧ Ronald E. Hedbany ❧ Charles Heim ❧ Michael Tarone Hester ❧ Randall Lamar Hester ❧ Samuel Hildago-Cordoga ❧ Phillip Hochstetler ❧ John E. Holbrook ❧ Gregg P. Howard ❧

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the officers approached, Castillo opened fire with a .45 cal. automatic weapon, fatally wounding one officer."

It was a routine incident that any one of us could have gone to, in an apartment complex that we've all been to. A victim mired in her own problems—a broken collar bone and a life crushing down around her—forgot to tell officers that her crazed, abusive boyfriend had fled with a gun. What followed happened fast. Thick fog and darkness shrouded the complex parking lot where Davis and his partner stopped to contact a driver backing out of the lot.

Ron took a bullet in the neck as he stepped out of his passenger side door. The bullet bled him faster than any resuscitating efforts could counteract. He died while his partner hopelessly tried to breathe life back into his bloody, weakening body. Medics said that even if they'd been there when it happened, there would have been nothing they could do to save his life.

The next week brought a crush of support for our division. The chief, the field operations commander, psychological services counselors, and peer support counselors all came to our lineups to say we're here man, and we know it doesn't feel good. The lineup room looked like a wake with its display of food, flowers, and cards that showered in from other divisions, other departments, and the citizens of our division.

Ron's squad was placed on leave, so officers came from other divisions to help us cover manpower shortages. And on the day of the funeral, officers volunteered from all over the city to cover our beats so that everyone in our division could go to the service.

The funeral procession filled the three miles from Jack Murphy Stadium to the church with bumper-to-bumper police units flashing red and blue overhead lights. Police cars came from San Diego, the Border Patrol, the U.S. Marshals, El Cajon, La Mesa, Chula Vista, National City, Riverside, Los Angeles, seemingly everywhere. The sight we made sent chills up my spine.

For the breadth of that three-mile procession, for a few minutes at least, drivers couldn't keep racing in their usual preoccupied frenzy. Traffic had to stop. In those frozen freeway moments, a tiny corner of the world had to take time out to notice our mourning at the passing of Ronald W. Davis, age 24, husband, father of two, San Diego police officer. The citizens held captive by the procession responded with heart. There was no angry beeping, there were no cars nosing down breakdown lanes. Drivers turned off ignitions in anticipation of a long wait and watched patiently. Many got out of their cars and waved or yelled words of sympathy.

The pastor's words at the funeral have stayed with me, because he began stretching my perspective back to a more fruitful, hopeful size. "Life is not defined by the quantity of years that we are on this earth, but by the quality of the time that we spend here."

I never cried at the funeral. I cried three weeks later in front of a second grade class.

Staring at the bulletin board one day drinking my coffee, I noticed a sheaf of papers with big, just-learned-to-write letters on them. The papers were letters to the Officers of Southeastern from Ms. Matthews's second grade class at Boone Elementary:

Dear Friends of Officer Davis,

We hope this letter will make you feel better. We feel sad about what happened to Officer Davis. We know he was a nice man and a good cop. We thank you for protecting our neighborhood. We know you try to protect every one of us. We know Officer Davis was a good father. We're sorry.

Your friend,
Jeffrey

Dear Friends of Officer Davis,

We feel sorry about Officer Davis. I know you feel sorry for what happened when the bad guy killed your friend, Officer Davis. Thank you for protecting us. I know that he's dead and I know you feel sorry about it. I'm glad you got the bad guy. Do you think this would happen again? I'm sure not. Please protect yourself.

Your friend,
Henry

P.S. I live in Meadowbrook apartments. Thank you.

Dear Friends of Officer Davis,

We feel sad about Officer Davis being killed. The man that killed Officer Davis got killed right behind our house. We live in front of Meadowbrook apartments. It is really sad that Officer Davis got killed. Last year when my brother was in sixth grade and he was playing basketball with his friends, two kids came and took the ball away. They broke his basketball hoop. Officers helped find the two kids. We are thankful you are trying to protect us.

Your friend,
Travis

Dear Friends,

I hope you will feel better. I know how you feel, sad. Was Officer Davis your friend? Well, he was my friend, too. When I saw the news I felt very sad for him. When I grow up, I might be a police officer. I'll never forget Officer Davis. I know how losing a friend is. When you lose a friend you feel very sad. I know how losing a friend is cause my best friend moved away to Virginia. They wrote to me once and I still miss her and I miss Officer Davis, too.

Your Friend,
Jennifer L.

Dear Officers,

I hope you feel a little better with my letter. We feel sorry that Officer Davis was killed. I heard that he got shot on his neck when he was just getting out of his car. I also heard that Officer Davis was an officer for two years and that he has two children. That one is one years old and the other five

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years old. I want to say thank you for protecting us and for helping us. We all wish that Officer Davis was still alive.

Your friend always,
Arlene

Dear Officers,

We were so sad that your friend Officer Davis died. Last night on 9-17-91
I couldn't sleep because I was thinking all about your friend Officer Davis. When I heard about Officer Davis getting shot I was so sad. I know how it feels when a friend is gone. I wish that Officer Davis could hear this but he can't right now. Officer Davis and the rest of the force do a great job.

Sincerely,
Jasper

Those letters brought feelings up from my gut. The next day I visited Room B-17 to deliver thank you notes to the authors. Ms. Matthews was so excited with my visit that she asked me to speak to the class. She explained that the letters were a class exercise to help the students deal with fears they had expressed to her after the shooting. Because many of her students lived in the apartments where Ron was shot, the shooting was very personal to them. Some couldn't sleep, others were afraid to walk to school, and some were shocked at the realization that the "good guys" get killed too.

I hadn't expected to give a speech, and wasn't really ready to give one on this particular topic. When I faced the class, I saw 32 sets of Filipino, Latino, white, and African-American eyes fixed on me. Their hands all sat respectfully in their laps. In those young faces, I saw an innocence and trust that I didn't want to shake.

I thought of the sympathy in their letters; I pictured them passing by the large, dark stain of Officer Davis's blood that still scarred the parking lot pavement; and I wondered what young minds must think when a force of blacked-out SWAT officers sweeps through nearby homes in search of the "bad guy" who shot the "good guy."

I wondered how many of the children had been home looking out their windows when the suspect, Arnaldo Castillo, was shot by a volley of officers' gunfire as he sprung out of his hiding place in the late afternoon of September 17. I couldn't imagine what these children must be thinking, because a second grader growing up in rural New Hampshire in 1962 didn't witness such events. I could only think that second graders of any generation in any place in the world shouldn't have to witness or ponder the senselessness of human violence.

When I finally opened my mouth to speak, my eyes watered and no words would come out. I could say nothing. Each time I tried to push my voice, my eyes watered more. I looked helplessly at Ms. Matthews and the vice principal, who had come to listen to me. Ms. Matthews came to my rescue by starting to talk to the class about strong feelings and the importance of letting feelings out so we don't trap sadness inside ourselves. "Even police officers know that crying can be a strong thing to do." Her reassurances to them reassured me and made me smile at the image of myself, "the big, brave cop" choked up by a second grade class.

We talked for a time about the shooting, about having someone to talk to about scary things, and about how important their thoughtful letters had been in a time of sadness. By the time I left, they were more enchanted with my handcuffs and nunchakus than they were concerned by death. Ahhh, the lure for us kids of all ages conjured up by cops and robbers, catching bad guys, rescuing good guys, and having a belt full of cop toys.

Through Ron's death, I grew to have a more mature, realistic view of my job. Through the eyes of the pastor at the funeral and Ms. Matthews's second grade class, I recovered perspective and belief in the value of what I do. It's important for me to live my life doing something I believe is important for this thing we call humanity. And I believe that what I do is important because of people like Henry, Jasper, Jennifer L., Jeffrey, Travis, Arlene, Ms. Matthews, and all of the kids in Room B-17.

❧

Randy K. Ingram ❧ Timothy J. Jones ❧ James K. Kinard ❧ Lawrence K. King ❧ George R. Knaff ❧ William Lark ❧ William E. Lehn ❧ Thomas Robert Lewis ❧ James Arnold Lutz ❧ John Madison ❧ Frankie Maldona- Delgado ❧ William I. Maldonado, II ❧ William J. Marie ❧ Robert E. Mahn, Jr. ❧ Issac Benjamin Martinez ❧ Martha A. Martinez ❧ Richard Alan Maxwell ❧ Sean A. McDonald ❧ Todd Meriwether ❧ Michael J. Miller ❧ Robert S. Miller ❧ Phillip A. Mingione ❧ Jesse D. Moorman ❧ Robert J. Mortell ❧ Michael Neihoff ❧ James Noyes ❧ Timothy O'Brien ❧ Manuel A. Ocasio-Serrano ❧ Charles Edward Osborne, Jr. ❧ Michael A. Osornio ❧ William L. Overton ❧ Ricky J. Parisian ❧ Jeffrey S. Parola ❧ William G. Patterson ❧ Jose Perez ❧ Steven Paul Pollard ❧ Paul M. Pytel ❧ Patrick J. Riley ❧ Billy K. Roberts ❧ William Robertson ❧ Michael Paul Roman ❧ Daniel A. Ross ❧ Len Rowell ❧ Steven R. Rutherford ❧ Ronald M. Ryan ❧ John R. Sandifer ❧ Jay W. Sealy ❧ Steven Michael Shaw ❧ Jeffrey N. Sheetz ❧ Benjamin Louis Short ❧ William Sibrava ❧ Wesley L. Silas ❧ James Joseph Silva ❧ Timothy A. Simenson ❧ Coy Smith ❧ Willie Samuel Smith ❧ William J. Snyder ❧ Miguel Soto ❧ Dennis Stemen ❧ Robert Stefanov ❧ Steve G. Stewart ❧ Ernie Stien ❧ David E. Sullivan ❧ Claude E. Swackhammer ❧ Antonio E. Terry ❧ Lori D. Thomas ❧ Meredith Thompson ❧ Patrick Thompson ❧ Doyle R. Thorne ❧ Michael Wayne Tracy ❧ Vernon Thomas Vanderpool ❧ Bruce J. Vanpopering ❧ Frank S. Wallace ❧ James Edward Walch ❧ Kenneth Earl Wallace ❧ D'antonio Washington ❧ William G. Ward ❧ Michael S. Welcker ❧ Ryan F. Weltman ❧ Davidson G. Whiting ❧ Thomas Christopher Wilson ❧ Jerry Von Wingo ❧ Kenneth Woodmore ❧ Juan Carlos Vars ❧ John J. Venus ❧ Ricky Aaron Yates

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CRIME SOLUTIONS

18 things we can now do to fight back

1 RESCUE THE YOUNG FROM BARBARISM

by John J. DiIulio, Jr.

Unparented children are growing into remorseless psychopaths in swelling numbers, posing grave danger to the public. Severely neglected and abused youngsters must be pulled from derelict mothers and fathers and given a chance in a new setting.

Listen closely. That ticking sound you hear off in the distance is America's crime bomb. The device is wired by irreversible demographic trends. The bomb is set to explode in the year 2000 when there will be about 500,000 more 14- to 17-year-old males in the population than there are today. The blast will level what is left of order and civility on predominantly black and Latino inner-city streets, shatter windows in downwardly mobile white, working-class urban enclaves, and be felt in upscale city neighborhoods, burglar-alarmed suburbs, and rent-a-cop rich business districts. Worst of all, the coming crime explosion will be especially violent—because the next wave of young street criminals, black, white, and Latino, will be especially vicious.

Crime rates among adolescents and young adults have mushroomed over the last two decades, among blacks in particular. We know a little bit about where these teenage predators are coming from. Most come from broken families. Over half of all kids in long-term state juvenile institutions have one or more immediate family members (father, mother, sibling) who have been incarcerated. An estimated 75 percent of the most violent incarcerated juveniles are boys who have been abused by a family member. The same fraction have witnessed extreme violence (murder, rape, assault) before they did violence themselves. Some 825,000 kids under age 18 today have one or both parents in prison.

Veteran cops, prosecutors, and others close to this problem note that the level of remorseless, murderous violence committed by young kids on inner-city streets today was "unthinkable" only a decade ago. I read and hear the same from prisoners. In a forthcoming book entitled *From Behind the Wall,* Mansfield Frazier—a man who has been arrested 15 times on felony charges and convicted five times—writes of "the coming menace" of a cadre of inner-city criminals who "promise to be monsters.... Never before in history have so many children been so neglected and brutalized."

He is right. A few months ago I spoke to a group of long- and life-term prisoners at a big maximum-security state prison. Most of them were black, under age 40, and convicted of multiple violent crimes, including murder. These men had ruled the mean streets of Newark and Camden in the 1970s and early '80s. Now all of them were working in a special program that brings kids who have had run-ins with the law into the prison for an "is-this-your-future?" taste of institutional life. "What," I asked, "explains the increase in murderous youth violence in your old neighborhoods and places like them?"

Few prisoners dwelled on poverty, joblessness, or other conventional "root causes." Not one argued that kids become criminally depraved mainly because they are economically deprived. Most argued instead that, in the words of one prisoner, "the kids coming to prison now are totally lost. Crack killed everybody's mama." "They don't listen to nothing or nobody, they got no respect, no fear," added another, cautioning that "sending in the blond [white social service workers] ain't what it's about." "I was a bad ass street gladiator," one prisoner reflected, "but [the kids in my neighborhood today] are stone-cold predators."

The thickening ranks of stone-cold predators consists mainly of inner-city black males who reach physical maturity without knowing either the loving touch

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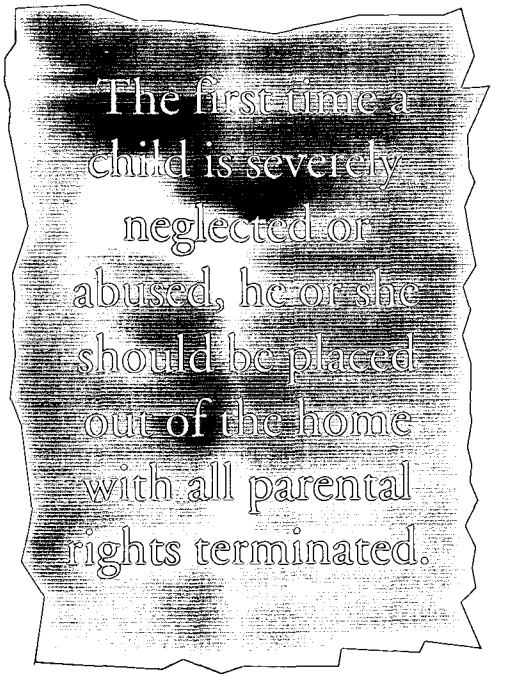
of a mother, aunt, sister, or grandmother, or the disciplining hand of a father, brother, male neighbor, teacher, or sports coach. The "role models" that are meaningful in their isolated lives are millionaire "gangsta rappers" who practice instant material and sexual gratification and preach impulsive violence against anyone who disrespects them in any way. Thanks to family meltdown, absolutely no one has imparted to these individuals the norms of civilized life—not even the basics of respect for peers and authorities, self-improvement, hard work, and other "middle-class" values. Most everyone in their lives taught them by example to be radically present-oriented and totally self-regarding.

Stone-cold predators can't easily be deterred by criminal penalties, because they attach almost no value to the future, their own or anyone else's. They can't be restrained much by stigma, the pangs of conscience, or the anguish of imprisonment, for they do not possess a normal range of human empathy or emotion. Nothing—not Head Start, and certainly not midnight basketball—is sufficient to divert them from their appointed criminal rounds. Morally and psychologically, they are anchored by no future, no past, no love, no hate, no grief, and no remorse. They are a new and deadlier breed of criminal than any ever seen before.

This must disturb us, but it should not shock or surprise. Aristotle warned thousands of years ago that "isolated from law and justice," humans are the worst of animals. People become good (loving, kind, responsible, law-abiding) only when they are "trained and habituated properly" and spend their time on "worthy pursuits under some form of right order—provided that this order has sufficient force." Because most people of whatever socioeconomic status are born to decent parents, most never become criminals. But allow communities to evolve where upwards of 75 percent of kids are born out of wedlock, where drug use is common, where the local economy is crime plus booze-to-go outlets, where state welfare policies frustrate family formation, and where quasi-familial influences (dedicated teachers, caring neighbors) have evaporated, and barbarism will not be far behind.



We can try to cope with unsocialized predators by avoidance—changing where we live, work, shop, attend schools, vacation, and invest. We can demand truth-in-sentencing laws that take dangerous individuals age 16 or older out of circulation for many years. And we can channel police manpower on high-crime neighborhoods. But the only really effective strategy for crime control will be the one that keeps kids from becoming criminals in the first place. That means enveloping children in the care of adults who teach them right from wrong, provide loving discipline, and encourage respect for the dignity and humanity of others.

Rather than waiting until the third or fourth "contact" with social service bureaucrats or judges, the first time a child is severely neglected or abused he or she should be placed out of the home with all parental rights terminated. As urban ethnographer Mark Fleisher writes in his forthcoming book *Beggars and Thieves,* we must do more than just ask parents to stop beating their sons and daughters. We must permanently rescue youngsters from irresponsible parents who have severely abused or neglected them. Instead of accepting their near-certain future as criminals, we should redirect them into orphanages, group homes, or boarding schools.

What I have in mind for inner cities are private, church-centered, residential institutions led, run, and staffed by black men and women drawn from the large population of urban blacks who pay taxes, work hard, worship faithfully, and raise good children. I think of them as "black urban kibbutzim."

Can such church-centered institutions be created in the face of fierce opposition from foster care bureaucrats and their perverse "family preservation" policies that currently lead to children being returned again and again to even the cruelest biological parent? Would such institutions work if they could be instituted? Can they maintain tough standards and independence while receiving government funds with all the red tape and political stumbling blocks that brings? Would they survive church-state legal challenges from the same civil libertarians who brought us no-eviction public housing, no-rules schools, no-teeth criminal statutes, and other disasters?

In all honesty, I do not know. But I suggest we better try and find out—soon.

John J. DiIulio, Jr. is a professor of politics and public affairs at Princeton University and director of the Brookings Institution's Center for Public Management.

2 SAVE THE DRUG BABIES

by Paul A. Logli

The 1980s brought a flood of drug-abused babies—damaged in utero by irresponsible maternal consumption of illegal narcotics, and stunted after birth by neglect and abandonment—that shows no sign of abating. Legislatures need to pass statutes written specifically to attack drug abuse of children.

In the late 1980s this nation was shocked to learn that nearly 380,000 children a year were born with some evidence of cocaine or other illegal drugs in their blood. The pictures that accompanied stories about this new group of endangered infants showed tiny, emaciated babies who were born many weeks premature lying in hospital cribs with wires and tubes attached to their bodies. Other pictures showed older children affected by drugs who were easily upset and unable to concentrate normally on daily tasks.

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Among the hundreds of thousands of drug-affected children are those who have simply been abandoned by their mothers at the hospitals where they were born. These so-called "boarder babies" sometimes learn how to walk while still residing in the maternity section of a hospital. They lose any opportunity for early bonding when their mothers desert them for drug consumption, prostitution, and other activities that leave no time, energy, or aptitude for properly rearing a child. Significant numbers of these mothers will return to the hospital again to give birth to further drug-scarred children.

This plague of substance-abused infants has raised concerns in both the health care and legal communities. Hospitals have had to absorb huge bills representing the costs of caring for the children. Even youngsters who are not physically harmed usually bear emotional and developmental scars that later require special medical, social, and educational assistance.

The legal response has been an effort by prosecutors to hold mothers accountable for narcotic abuse of an unborn child. Most efforts at applying existing laws to mothers have failed. Successful defenses have argued that mothers have never been put on notice that this behavior could be punishable by the criminal justice system.

Efforts to pass narrowly drawn statutes to prohibit maternal substance abuse during pregnancy have failed in almost all legislative chambers. Even when the proposed statutes centered on probation with condition of drug treatment, they have been defeated. Although the abuse of drugs by a pregnant mother is met with almost universal condemnation, legislators have been unwilling to stand up to intense lobbying by some health policy interests and a vocal pro-abortion lobby.

Lawmakers are told that punitive measures will only drive substance-abusing mothers out of the health care system and that women who are pregnant and abusing drugs will give birth at home or in back alleys to avoid discovery of their substance abuse. Such assertions ignore the fact that most of these women are already out of the health care system, and seek no prenatal or other medical care until they are in the midst of labor.

The pro-abortion lobby, on the other hand, argues that a punitive approach to the problem, even one that emphasizes probation and treatment over incarceration, persecutes women and threatens their right to do whatever they choose with their body and the body of their fetus.

Frozen by fear of being labeled sexist, anti-choice, or unenlightened, legislators have refused to consider sanctions that would communicate societal outrage at the illegal behavior of a small group of people engaged in the selfish destruction of their own innocent young. And so children continue to be damaged in undiminished number.

A humane legislative scheme would provide that all children be tested at birth for the presence of narcotics and other lethal substances. It has been shown that early intervention in the lives of substance-abused infants can overcome many of the otherwise long-term damaging effects of drug toxicity. In many cases the effects of narcotics are not evident in the infant without a blood test and thus many babies are sent home with actively substance-abusing parents who constitute a continuing threat to the safety, health, and proper nurture of the child. Universal testing of infants would allow state and local authorities to intervene in potentially tragic situations, devise appropriate early intervention, and perhaps undo some harmful effects of substance affected births.

Legislation should also be passed to specifically prohibit the delivery of illegal narcotic substances to a fetus while still in the mother's womb. This would place public policy clearly on the side of the innocent fetus, soon to be born, and against a mother who has no legal right to abuse drugs or endanger the future well-being of her offspring. This would also address the recurring problem of children who are stillborn or who die shortly after birth as a result of their mother's drug use. Since there is no live child, juvenile courts have no jurisdiction over the future actions of the mother in such a case. She is allowed to leave the hospital untreated and to produce other damaged children at will.

Any laws thus passed could provide for probation, drug treatment, and rehabilitation in the first instance. They could then set out progressive sanctions for individuals who refuse to cooperate with appropriate programs, or who subsequently give birth to substance-abused infants. Such a legislative statement would discourage young parents from making tragic decisions affecting their own health and the health of their babies. It would offer help, and it would set appropriate moral limits on behavior that tramples the rights of others. Just an ounce of political courage could produce laws that would prevent a fearsome toll from falling on more American children.

Paul Logli is the state's attorney in Winnebago County, Illinois.

3 GET CONTROL OF JUVENILE TERRORISTS

by Ed Koch

Special provisions in our laws set up decades ago to protect and excuse juveniles no longer apply in an era of unprecedented viciousness by young criminals. Laws for handling juvenile offenders must be stiffened, grossly negligent parents must lose their children, and new organizations for inculcating moral lessons in children should be tried.

Too often, in New York and other jurisdictions, the law treats juvenile criminals as delinquent children, while they act more like feral animals. Juveniles seem to view the lack of restraints as a license to attack the elderly, the infirm, and other children who are not able to defend themselves.

Each year juveniles are committing more crimes than ever before. According to Department of Justice statistics, the number of juveniles arrested for murder increased 104 percent nationwide from 1970–1992. Since 1980, juvenile gang killings, the fastest growing murder circumstance, have increased 371 percent.

Judges and prosecutors are unable to take appropriate action to stanch this

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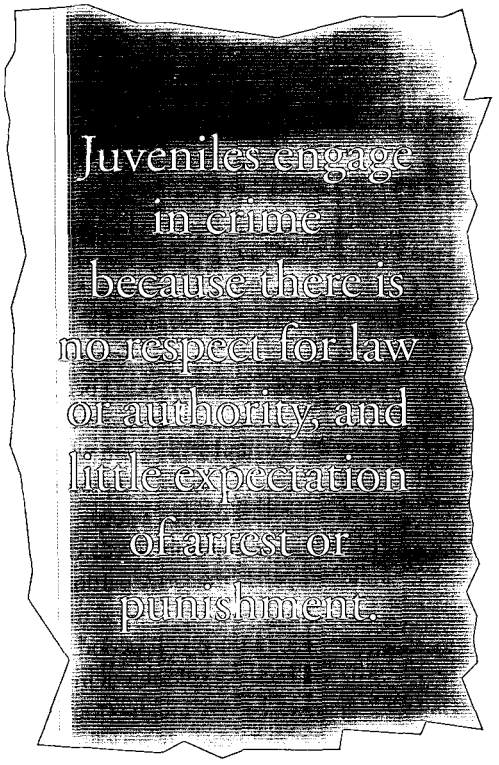

bloody flow because we have created unreasonable legal cushions for juveniles who commit serious crimes. In our zeal to protect the privacy of young thugs who in many cases will grow up to be older thugs, we've established a system where convicted juvenile criminals can't be identified to the public. Wouldn't you like to know if the kid down the block is a convicted arsonist? Or a sex offender? In New York, teenagers cannot be fingerprinted and photographed for certain felonies, including possession of a loaded gun or shooting someone resulting in physical injury. Why not?

Family Court prosecutors in New York are not permitted to get arrest and search warrants when a juvenile is involved—even if the prosecutor knows that a murder weapon is in the juvenile's home. Believe it or not, there is no legal mechanism available to get a search warrant and seize that murder weapon in the state of New York.

When juveniles convicted in family courts graduate to the adult courts, district attorneys and judges are often not allowed access to their full criminal history because juvenile records are placed off limits by confidentiality restrictions. Courts are sometimes told individuals are first-time offenders when they are nothing of the kind. Nationally, the recidivism rate for teenage offenders runs as high as 75 percent. There will be no controlling this until full juvenile records are made available to courts for purposes of imposing the appropriate punishment on chronic offenders.

Juveniles engage in crime because there is no respect for law or authority, and little expectation of arrest or punishment. Our state legislators fail to recognize that the crimes committed by these "little rascals" have gone way beyond pickpocketing, slashing tires, and drinking beer in public. The laws created to handle those misdemeanors are simply not adequate to deal with the serious felonies that juveniles are now committing.

In New York, for example, the maximum juvenile sentence for serious crimes like shooting someone, gang robbery, and burglary is 18 months. For the most heinous felonies like murder and rape, juvenile sentences range from three to five years, with the maximum rarely applied.

All of England was horrified when two 10-year-olds kidnapped and murdered a toddler. Prime Minister John Major summed up the feelings of most responsible people when he said, "I feel strongly that society needs to condemn a little more and understand a little less." Regrettably, that common sense response is rarely found in our state legislatures.

Recently in New Jersey, seven-year-old twin boys were arrested for breaking into a church, their third burglary in two weeks. Previously, according to press reports, they burglarized and ransacked a school, causing $30,000 worth of damage, and broke into a private house. After their most recent arrest they were again turned over to their mother, a recovering drug addict. The state Division of Youth and Family Services will "now send a caretaker to check on the boys to make sure they are home and out of trouble," according to a story in the local New Jersey newspaper.

Why was nothing done after the first burglary? And even if it made some kind of sense on the first occasion, it surely makes no sense to leave those children in the custody of their mother now. Without intervention, experience shows us that their rap sheets will grow and grow.

Aside from toughening the laws for handling juvenile crimes, what can we do to try and get youngsters off the criminal path? It is almost universally agreed that public schools for a whole host of reasons are not teaching morality. One proposal that I believe Congress should explore, and perhaps install on a test basis in Washington, D.C., is a scouting operation for children starting at age five that would be available from 3 to 6 p.m.

The second proposal, designed for those 17 and older, is a Civilian Conservation Corps designed to teach young people job skills, provide them with drug treatment if they need it, and assist them with getting their general equivalency diplomas. After serving two years in such a corps, those who entered with criminal records could be eligible for an executive pardon if they remained drug free and avoided runins with the law for a three-year period.

To cope with today's explosion of juvenile crime we must be very tough—tough on the criminals, and tough on ourselves. We should no longer view heinous behavior as a phase that a child will outgrow. Serious juvenile delinquency is now part of our culture, and we need urgent measures to punish and rehabilitate young people who are violating the rights of others.

Ed Koch is the former mayor of New York City.

4 REDUCE SERIOUS CRIME BY RESTORING ORDER

by George Kelling

To head off serious crime and keep neighborhoods livable we must enforce public order. Offenses like vagrancy and panhandling are not small matters; they signal a broader breakdown of standards. Police should attack public disorder to head off trouble instead of reacting to crimes after they've commenced.

The national debate on crime swirls around big issues like gun control, "three strikes and you're out," and capital punishment. Close to home, though, citizens are demanding something simpler: that police rejoin them on the streets to restore

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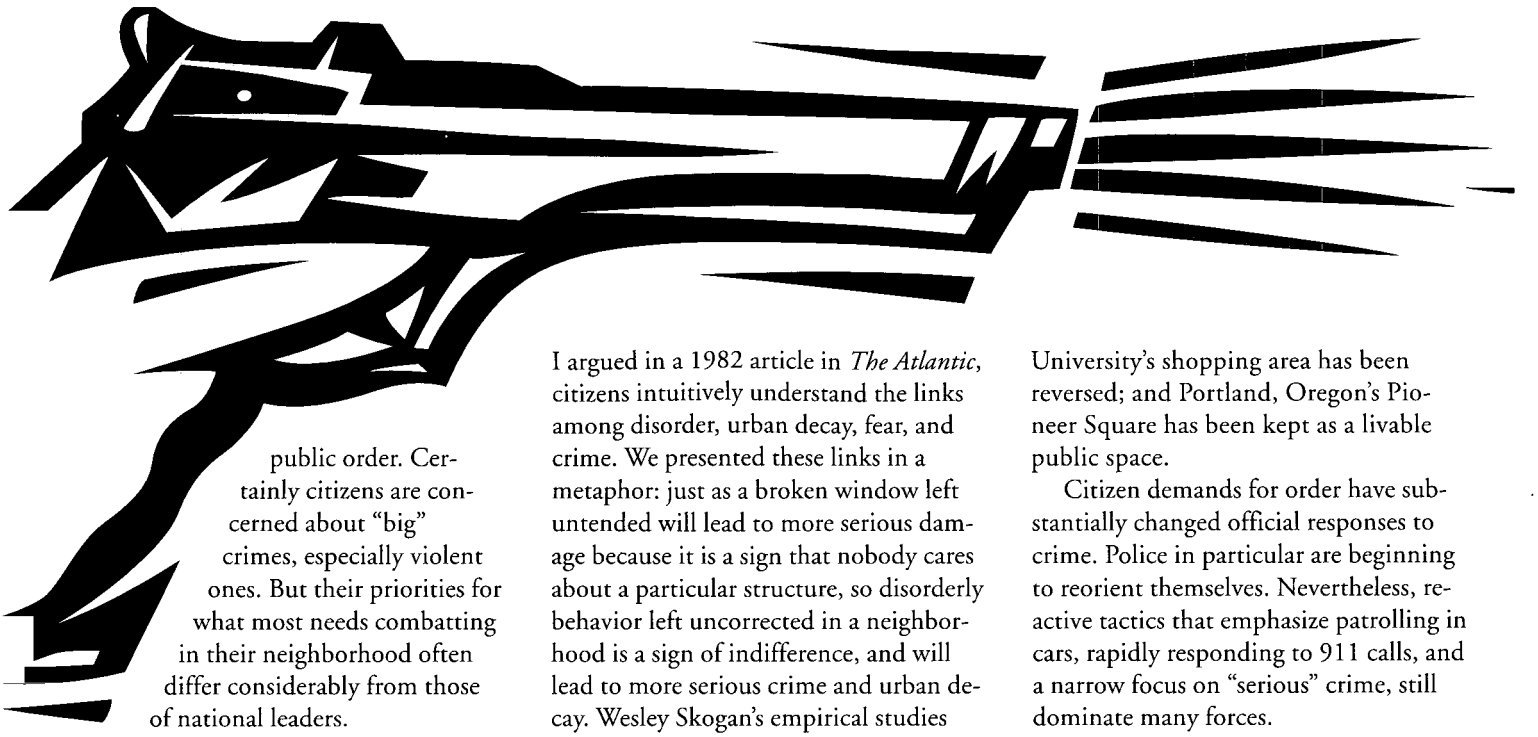

public order. Certainly citizens are concerned about "big" crimes, especially violent ones. But their priorities for what most needs combatting in their neighborhood often differ considerably from those of national leaders.

In focus groups, community meetings, and surveys, citizens regularly report their biggest safety concerns to be things like panhandling, obstreperous youths taking over parks or street corners, public drinking, prostitution, and other disorderly behavior. Such concerns cross class, race, and ethnic boundaries, and occur in all areas of the country. In New York City, surveys of citizens who abandoned subways during the 1980s showed that they were fleeing not because of serious crime but because of problems commonly associated with the "homeless": public urination and defecation, aggressive panhandling, individuals sprawling on benches and floors of trains or stations. Responding to citizen complaints, subway officials used their police to vigorously enforce subway rules, and at the same time provided service referrals to the genuinely needy.

In San Francisco, citizens demanded that parks, civic spaces, and sidewalks be reclaimed from prostitutes, panhandlers, and rowdy substance abusers, so Mayor Frank Jordan instituted "Operation Matrix," a multi-agency effort mixing social services, park maintenance, and police action. Again officials offered disorderly persons help if they needed it, but coupled this with strict enforcement of laws and ordinances.

Why are citizens so concerned about disorder? Isn't serious crime the real issue? Not quite. As James Q. Wilson and I argued in a 1982 article in *The Atlantic*, citizens intuitively understand the links among disorder, urban decay, fear, and crime. We presented these links in a metaphor: just as a broken window left untended will lead to more serious damage because it is a sign that nobody cares about a particular structure, so disorderly behavior left uncorrected in a neighborhood is a sign of indifference, and will lead to more serious crime and urban decay. Wesley Skogan's empirical studies later proved our hypothesis: In various cities around the country he found that disorder was a harbinger of more serious crime to come.

Of course, attempts to restore order in cities almost always bring lawsuits from activists. Most often it has been advocates for those euphemistically referred to as the "homeless"—an extraordinarily troubled and troublesome population. Advocates have argued that the presence of such individuals is actually good for society because it provides a necessary prod to provide more social services. Some judges have viewed disorderly behavior as expressions of individual rights, and denied any attempts to restrict it in public spaces. Others, however, have recognized the aggregate consequences of unregulated disorderly behavior, and allowed measures to limit it. Just how these legal struggles will be resolved is not yet clear, but the outcome will determine whether many neighborhoods thrive or spiral downward into urban decay.

We now have many examples of what happens when basic order is restored to public spaces. As a result of the determined efforts by police to keep order in New York City's subway, robberies have declined 55 percent in four years. Bryant Park in New York City has been reclaimed; San Francisco's downtown civic spaces have been restored to public use. The degradation of Seattle University's shopping area has been reversed; and Portland, Oregon's Pioneer Square has been kept as a livable public space.

Citizen demands for order have substantially changed official responses to crime. Police in particular are beginning to reorient themselves. Nevertheless, reactive tactics that emphasize patrolling in cars, rapidly responding to 911 calls, and a narrow focus on "serious" crime, still dominate many forces.

Rapid 911 response as the centerpiece of policing strategy may appear sensible, but research indicates unequivocally that it is a dead end. The centralized response system forces officers to focus solely on incidents of serious crime, prevents them from integrating into neighborhoods, and locks them in cars waiting for disasters to happen, rather than getting them to work with citizens to prevent crimes. For all this, rapid response makes a difference in less than 3 percent of all serious crimes.

Police have always spent considerable time in order-maintenance activities—but "unofficially," largely unrecognized and unrewarded. Politicians and police officials who have invested much in the promises of the 911 system sometimes resist its replacement. But if police are to be a preventive force in the community, they have no choice.

The good news is that police are beginning to respond to citizen demands and return to neighborhoods. Some prosecutors are changing their priorities as well. We are realizing that if serious crime is to be prevented, public officials must work with local residents to restore natural defenses against the disorder that is a first step toward predation.

George L. Kelling is a professor at Northeastern University and a fellow at Harvard University. His book Fixing Broken Windows: Restoring Order in American Society *is forthcoming.*

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5 JUST TAKE AWAY CRIMINALS' GUNS

By James Q. Wilson

Forget gun control. To separate guns from the people who kill, let police stop likely suspects on the street, frisk them, and seize their weapons.

The public suspects gun-control laws don't work as a means of getting weapons out of the hands of the criminal. The public is right.

There are some 200 million guns in private ownership, about one-third of them handguns. Only about 2 percent of the latter are employed to commit crimes. Moreover, only about one-sixth of the handguns used by serious criminals are purchased. Most crime weapons are stolen, borrowed, or obtained through private purchases that wouldn't be affected by gun laws.

What is worse, any successful effort to shrink the stock of legally purchased guns (or of ammunition) would reduce the capacity of law-abiding people to defend themselves. Gun control advocates scoff at the importance of self-defense, but they are wrong to do so. Gary Kleck, a criminologist at Florida State University, has estimated that guns are displayed or fired by citizens for defensive purposes more than a million times every year. This is more than the total number of police arrests made in a year for all violent crimes plus burglaries.

People who defend themselves with a weapon are less likely to lose property in a robbery, or be injured in an assault than those who do not, according to the National Crime Survey. Statistics show that the chances of a burglar being shot are about the same as his chances of going to jail. Criminals know these facts even if gun control advocates do not, which is why occupied homes in America are much less likely to be burgled than ones in Europe, where residents rarely have guns.

Some gun control advocates concede these points but rejoin that the cost of self defense is self-injury. But most gun accidents involve rifles and shotguns, not handguns. Moreover, the rate of fatal gun accidents has been declining while the level of gun ownership has been rising. There are fatal gun accidents just as there are fatal car accidents, but in fewer than 2 percent of all gun fatalities was the victim someone mistaken for an intruder.

Those who would forbid or severely restrict the sale of guns ignore these facts. Worse, they promote a morally and politically absurd course of action. They say, in effect, "your government, having failed to protect you from criminal assault, now intends to deprive you of the opportunity to protect yourself."

Opponents of gun control make a different mistake. The National Rifle Association and its allies tell us that "guns don't kill, people kill" and urge the government to more severely punish people who use guns to commit crimes. Locking up criminals does protect society from future crimes. And the prospect of being locked up may also deter criminals. Experience shows, however, that tougher sentences are also less likely to be imposed by certain reluctant prosecutors and judges.

Those who would forbid or severely restrict the sale of guns say, in effect, "your government, having failed to protect you from criminal assault, now intends to deprive you of the opportunity to protect yourself."

The NRA focus on completed crimes also ignores the fact that the mere presence of an illegal gun can make many street encounters more dangerous. Criminals carry guns not just to carry out crimes but also to protect themselves from other armed hoodlums. Guns often convert spontaneous outbursts of anger into fatal encounters that can be threatening to bystanders as well as participants. It should be one of our goals to get guns out of the hands of unstable young males before they are used in crimes, not just after.

Disarming law-abiding citizens is not the way to go about this. Instead, we should reduce the number of people who carry guns unlawfully in public places. This means encouraging the police to make street frisks.

The Fourth Amendment to the Constitution bans "unreasonable searches and seizures." In 1968 the Supreme Court decided in *Terry v. Ohio* that patting down a person's outer clothing is proper if a police officer has a "reasonable suspicion" that a person is armed and dangerous. If a pat-down reveals an object that might be a gun, the officer can enter the suspect's pocket to remove it. If the gun is being carried illegally, the suspect can be arrested.

The reasonable-suspicion test is much less stringent than the probable-cause standard the police must meet in order to make arrests. A reasonable suspicion, however, is more than just a hunch; it must be supported by specific facts. The courts have held, not always consistently, that these facts may include things like flight at the approach of an officer, suspicious bulges in the pockets of motorists stopped for traffic violations, or information from a reliable informant that someone is carrying a gun. The Supreme Court has also upheld frisking people on probation or parole.

Some police departments frisk a lot of people, but most do not. In 1992 the police arrested about 240,000 people for illegally possessing a weapon. About four times as many were arrested for public

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drunkenness. The average police officer will make no weapons arrests and confiscate no guns during a given year. Professor Mark Moore has found that most weapons arrests are made because a citizen complained, not because the police were out looking for guns.

It is easy to see why. Many cities suffer from a shortage of officers, and even those with ample law-enforcement personnel worry about being accused of police harassment, or having their cases thrown out for constitutional reasons. But the risks of violating the Constitution or harassing citizens can be substantially reduced.

Each patrol officer can be given a list of people on probation or parole who live on that officer's beat, and be rewarded for making frequent stops to ensure that they are not carrying guns. Officers can be trained to recognize the kinds of actions that the court will accept as providing the "reasonable suspicion" necessary for a stop-and-frisk. Statutes or court precedents could be established to make membership in a gang known for assaults and drug dealing the basis for gun frisks.

And modern science can be enlisted to help. Detectors at airports have reduced the number of airplane bombings and skyjackings to nearly zero. But these devices work only at very close range. What is needed is a machine that will enable the police to detect a gun in someone's pocket from a distance of 10 or 15 feet. Receiving such a signal would supply the officer with reasonable grounds for a pat-down. Underemployed nuclear physicists and electronics engineers surely have the talents for designing useful gun detectors today.

[*Editor's note:* Professor Wilson's proddings in this area over the last year have just borne fruit. In March, the Justice Department awarded three lab contracts for the development of prototype concealed-weapons detectors. Within 18 months, devices that can identify and describe a gun concealed on someone's person from 12 feet away should be available. Mobile devices usable from patrol cars at even longer distances will follow.]

Even if we do all these things, there will still be complaints. Innocent people will be stopped. Young black and Hispanic men will probably be stopped more often than older white males or women of any race. But if we are serious about reducing drive-by shootings, gang wars, and lethal quarrels in public places, we must get illegal guns off the street. We cannot do this by lengthening the forms to be filled out at gun shops or by pretending that guns are not a problem until a criminal uses one.

James Q. Wilson is James A. Collins Professor of Management at UCLA, and chairman of AEI's Council of Academic Advisers.

6 GET MORE GUNS INTO LAW ABIDING POCKETS

by Dave Kopel

Growing numbers of states are allowing law-abiding citizens to carry handguns with which to defend themselves. Research shows these laws increase personal security and do not have bad side effects.

Gun-control experts agree on two basic points: Every year, guns are used many thousands of times to perpetrate crimes. And every year, guns are used many thousands of times for lawful protection. Common sense thus suggests that gun control policy should follow two tracks: decreasing the number of unlawful criminal uses, while increasing the number of lawful defensive uses. While the former approach has garnered most of the media attention, a large number of states in recent years have adopted laws using the second approach. Twenty-three states currently have policies that stipulate that any trained law-abiding citizen may obtain a permit to carry a handgun.

When handgun-carrying laws are debated, opponents typically raise fears that blood will flow in the streets as armed citizens shoot each other over traffic jams. A recent study by Clayton Cramer and myself of outcomes in states that have legalized handgun-carrying finds this is not true. No legal-carry state saw any abnormal increase in homicide rates, and one such state—Florida—experienced a sharp drop in its murder rate after the law changed.

Gun control policy should follow two tracks: decreasing the number of unlawful criminal uses, while increasing the number of lawful defensive uses.

Whether concealed carry permits result in significant reductions in crime rates or not, they plainly pass the "if it saves one life" test propounded by some gun control advocates. In October 1991, psychopath George Hennard rammed his pickup truck through the plate glass window of Luby's Cafeteria in Killeen, Texas. Using a pair of ordinary pistols, he murdered 23 people in 10 minutes, stopping only when the police arrived.

Dr. Suzanna Gratia, a cafeteria patron, had a gun in her car, but, in conformity to Texas law, the gun was not carried on her person; despite its Wild West image, Texas was the first state in the nation to prohibit any carrying of handguns. (Carry reform is considered virtually certain to pass Texas in 1995.)

If Dr. Gratia had been carrying her gun, she could have shot Hennard. "I had a perfect shot at him," she later explained. "I

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had a place to prop my hand. The guy was not even aware of what we were doing."

Hennard reloaded five times, and had to throw away one pistol because it jammed, so there was plenty of opportunity for someone to fire at him. But because of the restrictive Texas law, neither Dr. Gratia nor any other citizen was armed. Both of Gratia's parents were among Hennard's victims.

Two months later, a pair of criminals with stolen pistols herded 20 customers and employees into the walk-in refrigerator of a Shoney's restaurant in Anniston, Alabama. Hiding under a table in the restaurant was Thomas Glenn Terry, armed with the .45 semi-automatic pistol he carried legally under Alabama law. One of the robbers discovered Terry, but Terry killed him with five shots in the chest. The second robber, who had been holding the manager hostage, shot at Terry and grazed him. Terry returned fire, and critically wounded the robber.

The experience of states with legal-carry laws clearly shows that the people who obtain permits—going through fingerprinting, a 90-day background check, and training classes—are law-abiding, stable citizens, and do not turn into temperamental psychopaths when issued a permit. Despite much gun control hysteria, in no jurisdiction we studied were the permit-holders considered a problem by law enforcement. Having strongly opposed Florida's reform law, the Dade County police administration in 1988 began compiling detailed reports of every police encounter with a permit-holder. The reports were discontinued in 1992, since permit-holders were so rarely encountered. Over 200,000 permits have been issued in Florida since 1987, and only 18 revoked because of misconduct with a firearm (generally, carrying the gun into an unlawful place, such as a bar). The story is the same in other states.

The only "evidence" that concealed carry laws are harmful is a single unpublished article from the University of Maryland that claims to find a homicide rise in cities that adopted concealed carry laws. This bit of "junk science" used data that did not distinguish lawful defensive killings from criminal ones, did not study whether homicides occurred outside the home (the only place where concealed carry laws come into play), altered the years analyzed from city to city in order to minimize pre-law homicide rates, used mostly cities in Oregon and Florida but ignored the fact that homicide rates fell in both states, presumed that the change in the carry law was the only plausible explanation for homicide changes, and, most importantly, presented no evidence that even a single carry-permit holder had perpetrated a homicide.

Apart from the lives they save and the crimes they squelch, legal-carry laws allow permit-holders a precious peace of mind. If a woman can feel safe walking three blocks to the 7-Eleven after dark rather than remaining a prisoner in her own home, the permit has value even if the defensive weapon is never needed. Large numbers of women are beginning to demand the right to protect themselves in this way. When signing Alaska's 1994 carrying reform law, Governor Walter Hickel explained that the decisive factor was the women who called his office: "Those that impressed me the most were the women who called and said they worked late and had to cross dark parking lots, and why couldn't they carry a concealed gun?" In Colorado, a group of 1,600 women called "SWARM" (Safety for Women and Responsible Motherhood) has become the leading voice for carry reform. Already, California allows domestic violence victims whom a court has determined to be in immediate danger the right to carry a handgun for protection, without need to undergo a months-long application process for a permit.

Opponents of carry reform, finding that experience in legal-carry states has been quite positive, resort to slogans such as, "What if everyone carried a gun?" The question is meaningless, since data from legal-carry states show that only 1 percent to 4 percent of the adult population chooses to obtain a permit. But even if everyone did carry a gun, leading to the "Wild West" scenario foretold by carry reform opponents, the nation might be a lot safer. Historian Roger McGrath's detailed examination of actual crime rates in the nineteenth century *American West, Gunfighters, Highwaymen, and Vigilantes* found that despite the fact that the region was peopled mainly by young transient males subject to few social controls and weak law enforcement, the per capita annual robbery rate was 7 percent of modern New York City's, the burglary rate was 1 percent, and rape was nearly unknown. Everyone carried a gun, and "the old, the weak, the female, the innocent, and those unwilling to fight were rarely the targets of attacks," McGrath found. Except for young men who liked to drink and fight with each other for disreputable sport, residents of the well-armed West were far more secure than residents of today's cities where ordinary people are banned from carrying a firearm.

With concealed carry reform laws already on the books in 23 states, and under serious consideration in 15 more, it seems inevitable that a national carrying-permit proposal will eventually be considered. In the near term, Congress might consider repealing the Washington, D.C. handgun prohibition and replacing it with a statute that requires authorities to issue a defensive carrying permit to any law-abiding resident of the District who requests it and is willing to take a safety course. Letting residents of the nation's capital exercise their Second Amendment right to protect themselves from the murderous insecurity that now rages all around them might just be a bold idea whose time has come.

David Kopel is research director of the Independence Institute.

7 GO TO THE PEOPLE

by John Carlson

Squeamishness among political leaders over strong anti-crime measures can be sidestepped by going directly to the public. Here's how Washington state residents invented "Three Strikes and You're Out," and how they're about to force into law new no-nonsense provisions attacking gun crime.

When fighting crime, it is important to zero in on its real sources. The first and most serious cause of crime is letting

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criminals out of prison. Short sentences for violent, repeat offenders perpetuate the problem. Our response in Washington State was the nation's first "Three Strikes, You're Out" law, which mandates life in prison for anyone after conviction for a third serious offense (which includes any Class A felony or violent Class B felony). Simple and clear. No *ifs, ands,* or *buts.* And no exceptions, except via official clemency from the governor, who is accountable to voters for his actions.

We first tried instituting this reform through the legislative process. Didn't even come close. Fresh ideas from outside tend to wither quickly in the hot, stuffy political climate of state and federal capitols.

But in Washington State we have the initiative process, and after a laborious effort to gather 182,000 signatures, our proposal went before the people in November 1993. It passed with nearly 77 percent of the vote.

Sociologists, public defenders, and civil libertarians rushed to condemn the new law as a "simplistic" slogan that would do nothing to reduce crime. But police officers, jail guards, and prosecutors reported that even hardened criminals were visibly chastened by the new rules. The head of Seattle's sex offender registration program said that some criminals were leaving the state, and that others were pursuing drug and alcohol treatment they had refused in prison. Convicts who already had at least two offenses wondered out loud why they shouldn't have three fresh chances instead of just one more.

A TV camera crew from NBC's Seattle affiliate visited the King County Jail to interview inmates about the new law. Most said it was unfair, but all of them said they would think twice before committing a third "strike."

It is too early to pronounce final judgment on Washington's Three Strikes law. But statewide statistics show murders down 10 percent, rapes down 18 percent, and assaults down 4 percent in the first six months under the new law, while murder and assault had actually gone up the year before.

The next step we took in fighting crime was "Hard Time for Armed Crime," another failed legislative bill that bloomed into a popular ballot measure. Like "Three Strikes," "Hard Time" is tightly focused on a specific target—in this case, people who illegally use firearms or other deadly weapons, and those who unlawfully obtain guns. Until recently, the law in Washington State did not regard the theft of a $350 gun any more seriously than a $350 stereo. Many states still don't. Political debate centers fruitlessly on guns and ammunition purchased legally by law-abiding citizens, ignoring the fact that hardly any of the firearms used in violent crimes come from this source.

"Hard Time" creates the new crime of "theft of a firearm," and mandates more than a year in prison for stealing a gun—a substantial increase from the 60 days gun thieves can expect under current law. "Hard Time" also adds up to five years at sentencing for using a firearm in any felony (none of which can be discounted for "good behavior"), and adds up to two extra years for using any other deadly weapon such as a knife or club. It requires the state to keep public records of how judges sentence armed criminals, and to record all plea bargains.

The hope is that "Hard Time" will stigmatize the use and illegal possession of deadly weapons, particularly guns. Legal gun-owners' groups, weary of weathering the fallout of gun use by thugs, support the measure, as do prosecutors, victims' rights advocates, and, of course, cops.

The initiative has already qualified for next year's ballot, but the legislature, after an election that saw a drastic change of seats (from 35 Republicans to 61 in the 98-member House) has had a change of heart and wants to pass the initiative directly into law. The House vote was 88–6. A favorable Senate vote is expected shortly.

Our next anti-crime measure will target juvenile criminals, and the justice system's mishandling of them.

John Carlson is president of the Washington Institute for Policy Studies.

8 RETRIEVE THE DEATH PENALTY FROM SYMBOLISM

by John J. DiIulio, Jr.

The death penalty is barely applied these days, so we know little about its deterrent effects. Studies show that many killers will commit more crimes if released, and that sentences of death are not meted out unfairly by race. Americans support the death penalty as an expression of justice—which they are currently getting very little of.

Between 1977 and 1993 a third of a million Americans were murdered. Now take this multiple-choice test and guess what happened to their killers:

1. How many people were on death row in 1993 for all those lives stolen since 1977?
   (a) 58,590
   (b) 14,152
   (c) 2,716
2. How many of the thousands of individuals on death row in 1993 were actually put to death that year?
   (a) 491
   (b) 164
   (c) 38
3. Between 1977 and 1993, how many murderers do you suppose were executed in America in total?
   (a) 22,600
   (b) 2,260
   (c) 226
4. What is the average sentence these days of someone in state prison for murder?
   (a) 40 years
   (b) 30 years
   (c) 20 years
5. How much time does the average murderer actually spend in lockup before being released?
   (a) 21 years
   (b) 14.7 years
   (c) 8.5 years

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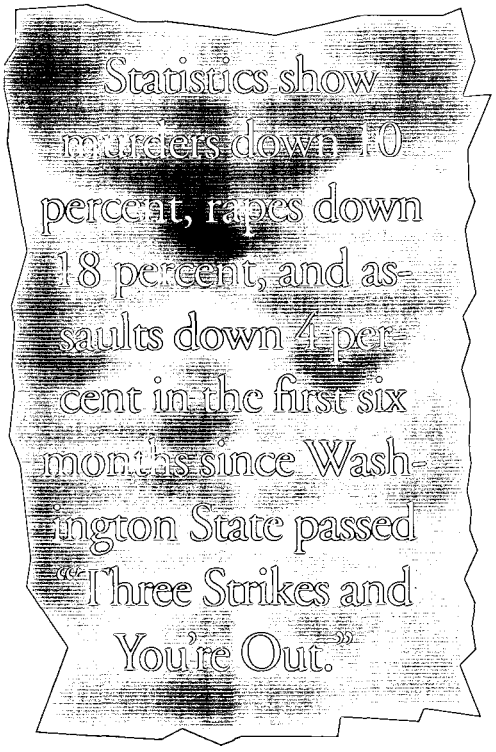
The correct answer to each question is "c." Which means that our justice system's message to anyone who believes murder should be punished by the death penalty in more than just a few symbolic cases is currently something like: "Get lost!"

In recent years, no state has executed more murderers than Texas. In 1993 Texas carried out 17 capital punishments; Virginia was a distant second with five. But Texas, like other states, commuted all death sentences to life imprisonment after the Supreme Court banished the death penalty in 1972, and a recent study tells us what happened to those death row inmates when Texas stopped executing them. It reveals that since 1974 about three times as many Texas prisoners have been released from death row by commutation or judicial reversals or dismissals as have been executed. After being released into the general prison population, 12 of 47 commuted prisoners were responsible for 21 serious violent offenses against other inmates and prison staff. One commuted death row inmate killed another prisoner. And within a year of his release on parole another commuted death row prisoner killed a girl.

This is not to say that every murderer on death row would murder again if released. But these individuals do tend to be repeat criminals. Over 40 percent of the persons on death row in 1992 were on probation, parole, or pretrial release at the time they murdered. (Ongoing research by myself and others indicates that perhaps a third of all the murders committed in this country over the last few decades were carried out by persons freed under court supervision. Tens of thousands of Americans are dead today simply because these criminals were let free.)

One of the things that has obstructed and delayed the carrying out of death sentences most is fear that they might be handed out in racially unfair ways. There are scores of studies that test this by weighing racial factors in capital sentencing. And those studies that control for all relevant factors including crucial legal variables (eyewitnesses present, aggravating circumstances) find absolutely no evidence of racial bias in contemporary capital sentencing. Of those persons under sentence of death in 1993, about 58 percent were white. This is actually much higher than the proportion of all murderers who are white. Historically, black homicide rates have never been less than five times white homicide rates, and in many years since the 1950s have been more than 10 times higher.



No matter what type of reforms might be adopted to reduce the endless legal appeals that currently block most death sentences from being completed, America is never going to make it easy or inexpensive to execute convicted killers. Besides, the real bottleneck discouraging use of the death penalty today is not at the back end, it's at the front end: prosecutors wary of controversy don't seek the death penalty if they can help it, least of all in racially charged cases. When the Supreme Court terminated the death penalty in 1972, murder cases fell into the plea-bargaining pit along with other violent crimes. When the Court reinstated the death penalty in 1976, prosecutors were not eager to pull it out. Today, the bureaucratic, mass assembly culture of most big-city district attorney's offices favors doing a little deterrence on the cheap, frankly, not a lot of justice at great effort and financial cost.

Every major opinion survey of the last decade shows that large majorities of Americans—whites, blacks, young and old alike—support the execution of murderers. Americans value the death penalty not just for its utility as a crime-reduction tool; they value it as a way of doing justice. But, somehow, getting away with murder remains relatively easy in America. Only a tiny fraction of even the most vicious killers ever get executed. Neither deterrence nor justice can possibly be achieved in this way.

John J. DiIulio, Jr. is professor of politics and public affairs at Princeton University, and director of the Brookings Institution's Center for Public Management.

9 CLOSE THE *HABEAS CORPUS* LOOPHOLE

by Kent Scheidegger

Criminals and their lawyers exploit current legal procedures to groundlessly appeal thousands of state criminal cases into the federal courts. This delays the execution of justice by many years and is very costly. The House closed the loophole in February. Will the Senate and President Clinton follow?

The jury files back in. They have finally decided. The family members of the murder victim wait anxiously. They've endured the horror of the murder. Then the investigation. Then months of pre-trial maneuvering. Then the trial. Then the penalty phase.

At last the verdict is read. The sentence is death. Now, finally, they think, justice will be done.

But they are tragically wrong. To borrow Churchill's phrase, it is not the end, or the beginning of the end; at best, it is only the end of the beginning.

No one disputes that appeals are necessary in criminal cases. To ensure that trials are fair, some must be reviewed carefully by appellate courts. In complex cases, especially capital ones, this process takes time.

What is very much disputed, though, is the need for the next stage of the current system. In other kinds of cases, once a judgment is affirmed on appeal, the matter is permanently settled and cannot be challenged in another court. Only in state

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criminal cases are final judgments routinely second-guessed in a different, not higher, court. For after state courts have exhaustively reviewed the conviction and found no reversible error, the convict runs to the federal courts and gets a second review of his constitutional arguments. The careful consideration and rejection of his legal claims by the state courts receives no weight at all in this federal proceeding, called *habeas corpus.*

The case of Kermit Smith illustrates the unnecessary delay and interference with state proceedings this causes. In 1980, Smith kidnapped three college cheerleaders and brutally raped and murdered one of them, 19-year-old Whelette Collins's. After his trial, state courts reviewed his conviction in three separate proceedings over a period of seven years. Despite this exhaustive investigation, Smith's lawyers delayed his execution another six-and-a-half years by filing a federal *habeas corpus* petition. Fourteen years after Whelette Collins's death, her killer was finally brought to justice. Nearly half the total delay was in the federal courts, and all this happened in a case with no doubt whatever concerning the identity of the killer.

This practice strikes at the heart of federalism. Enforcement of the basic criminal law is the single most important function of state and local governments. Protection of our persons and property from marauding criminals is a primary reason we have governments in the first place. If states are not competent to try and punish criminals for murder, rape, and robbery, we should begin to ask why we have states at all.

Like so many problems of government excess, this one has its origins in a drastic remedy for a dire problem, a remedy that has both overstayed its necessity and overflowed its banks.

The ancient legal procedure of *habeas corpus* was a remedy for people held in custody illegally. Its beneficiaries included political prisoners jailed by the king and suspects improperly denied bail before trial. The law was clear, however, that a person convicted of a felony in a proper court could not use this procedure to delay or review his sentence.

The latter rule was followed in America into the twentieth century. In case after case, such legal giants as Chief Justice John Marshall, Justice Joseph Story, and Justice Oliver Wendell Holmes reiterated that any claim that did not affect the jurisdiction of the trial court could not be considered on *habeas corpus,* even if the claim were based in the Constitution.

In the 1920s, this practice began to change. Criminal procedure was badly in need of reform, especially in state courts. The old cases are replete with coerced confessions, lynch mobs around courthouses, and indigent defendants tried without counsel or with only perfunctory representation. Looming above it all was the age-old problem of racism.

The Supreme Court expanded constitutional protections to correct such abuses. At the same time, it expanded the writ of *habeas corpus* to cover all constitutional claims, not just claims concerning the jurisdiction of the trial court. In 1953, it dropped the bombshell. Ignoring its own past statements to the contrary, it directed the lower federal courts to redecide issues already fully and fairly adjudicated in the state courts.

In retrospect, it is not difficult to see why such a step was thought necessary in 1953, especially in a case from the South involving racial discrimination in jury selection. Given the magnitude of the problem, deputizing the lower federal courts as mini supreme courts, with full power to review decisions of state supreme courts, may well have been a necessary evil.

Changes in the law and the nation since 1953, however, have made this practice far less necessary and much more evil. America is a vastly different place than it was. Governors do not stand in schoolhouse doors. Presidents do not need to send the Army to enforce court orders. State judges do not declare that the U.S. Constitution is inapplicable, as the judge in the Billie Sol Estes case did. Federal constitutional limits are acknowledged and applied every day in every criminal court in this country.

The use of *habeas corpus* to review state judgments in federal court can be justified in two situations, both exceedingly rare. First, if a defendant has compelling new evidence of actual innocence which the state will not consider, *habeas corpus* can prevent a fundamental miscarriage of justice. Second, if a state court really does defy Supreme Court precedent, so clearly that reasonable judges cannot differ, a corrective mechanism is needed.

What needs to be stopped is the use of *habeas corpus* to simply go judge shopping, running the same marginal arguments past multiple sets of judges until someone agrees with the defendant. On February 8, 1995, the House of Representatives passed H.R. 729 to eliminate this abuse. It remains to be seen whether the Senate and the president will concur.

Kent Scheidegger is legal director of the Criminal Justice Legal Foundation, based in Sacramento, California.

10 RADICALLY NARROW THE EXCLUSIONARY RULE...

by George Dentes

Our current exclusionary rule is another judge-made loophole that regularly obstructs justice. It bogs down most criminal trials, and often allows flagrantly guilty individuals to walk free because important evidence has been excluded from court. It should be radically narrowed at the very least.

The goal of the justice system should be to punish the guilty and vindicate the innocent. Instead, our system regularly suppresses reliable evidence and knowingly lets the guilty off. This is the effect of the so-called "exclusionary rule."

The exclusionary rule excludes evidence of guilt at a criminal trial if the evidence was unconstitutionally obtained. For example, if the police need a search warrant but fail to get one, the evidence they find—drugs, guns, bloodstains, whatever—will not be admissible in court.

The rationale for the rule is that if police cannot use evidence wrongly obtained, they will not act wrongly. That's the theory. In practice the rule fails miserably and causes more injustice than it prevents.

The key problem is that the exclusionary rule rests on a false assumption,

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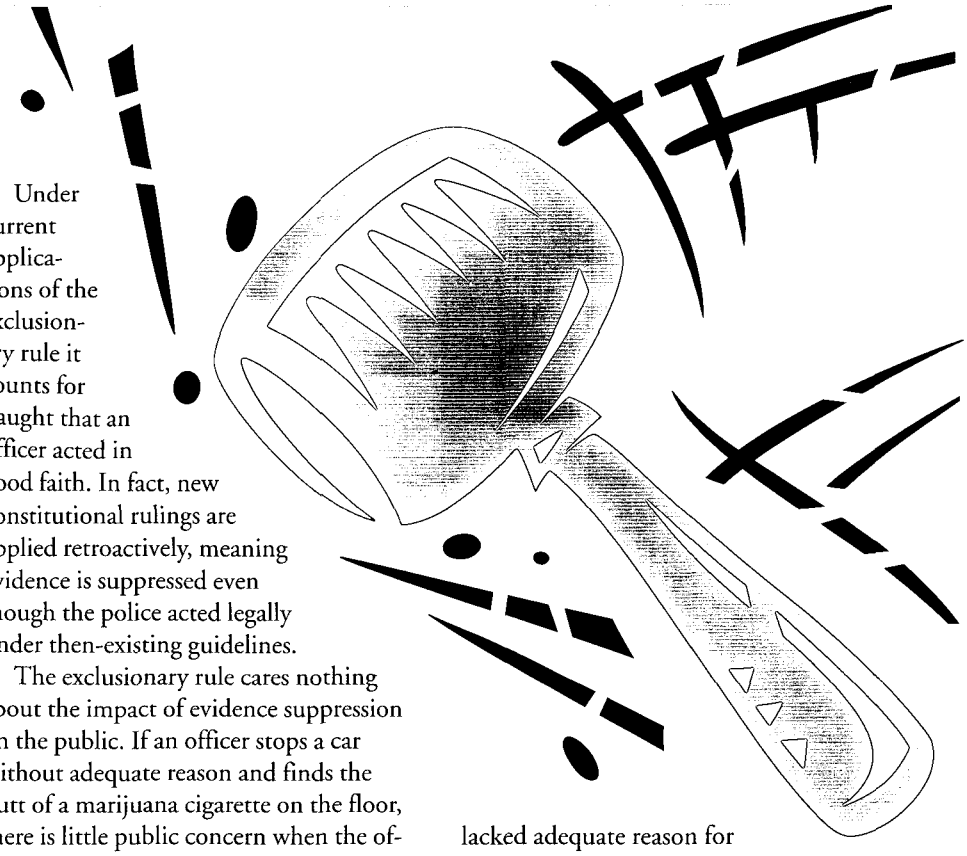

namely that the law is clear and that the police can make simple decisions between right and wrong. In fact, the law is often murky and subject to varying interpretations when applied to the facts at hand.

Consider the facts confronting Police Officer James Doyle. He was on patrol in Manhattan when he was dispatched to handle a call of "shots fired." The call gave the location as apartment 3C, 450 West 163rd Street, a known drug house. Doyle responded quickly, scaled the steps, and found the door to the apartment slightly ajar. He heard voices inside. He pushed the door open and entered. He found four men. Two held handguns. One of them dropped his gun at Doyle's command; the other threw his out the window. On a nearby table was seven ounces of cocaine, a scale, and a granulator. He arrested the four men and charged them with drug and weapons crimes. Many would consider Doyle a hero.

Enter the judicial system and the exclusionary rule. The defendants sought to exclude the drugs and guns, alleging that Doyle had violated their rights by entering the apartment without a warrant. The prosecution countered that the shots-fired report presented an emergency making a warrant unnecessary. The judge ruled that Doyle was indeed presented with an emergency, and held the evidence admissible. All the defendants were convicted, and all were sentenced to 15 years to life.

On appeal, the defendants renewed their argument that Doyle illegally entered the apartment. Two separate panels of appellate judges heard the appeals, and it so happened that each panel issued its decision on the same day, unaware of what the other was doing. One panel unanimously held that Doyle acted legally in entering the apartment, and the other unanimously held that he acted illegally. The upshot is that one of the defendants is now free, while the others are serving 15 to life.

Results this preposterous are not the norm, but confusion over search and seizure law is routine. If our judges, with all the time and repose they need to deliberate, cannot agree on how to apply the law to the facts, how can they expect the cop on the street to make correct split-second decisions?

Under current applications of the exclusionary rule it counts for naught that an officer acted in good faith. In fact, new constitutional rulings are applied retroactively, meaning evidence is suppressed even though the police acted legally under then-existing guidelines.

The exclusionary rule cares nothing about the impact of evidence suppression on the public. If an officer stops a car without adequate reason and finds the butt of a marijuana cigarette on the floor, there is little public concern when the offense goes unpunished. But if the officer finds a gun that proves the driver committed a murder, the suppression of the gun may set a killer free and outrage the public. The officer's conduct in both cases is the same, but the consequences to the public vary drastically.

The exclusionary rule burdens our courts with a multitude of suppression hearings. These are pre-trial hearings where the defendant attacks the police, attempting to show some unconstitutional conduct. Defense attorneys put great effort into these hearings, for winning a suppression ruling may suppress vital evidence—the gun in a shooting, the cocaine in a drug conspiracy, the stolen stereo in a burglary—and end the prosecution. I dare say that we spend more time litigating the question of police misconduct than we spend litigating the question of the defendant's guilt.

Some say that we need the exclusionary rule to protect us all, but in fact the exclusionary rule helps only the guilty. Assume that two men are walking down the street, one a drug dealer, the other law-abiding. A police officer stops them both and frisks them, finding drugs on the dealer, but nothing on the other. The law-abiding man is allowed to go on his way. The dealer is charged with drug possession and goes to court. He moves to suppress the drugs, and the motion is granted on the ground that the officer lacked adequate reason for the stop and frisk.

The exclusionary rule has done nothing for the law-abiding man. He is left to pursue other remedies—to sue the officer civilly, or perhaps to complain to the police review board. The drug dealer, on the other hand, has all the rights of the law-abiding man *plus* the right to avoid punishment for his crime. The only ones punished are the members of the community at large, who suffer the continued presence of the drug dealer.

Changing the exclusionary rule need not be an ordeal. The Constitution itself says nothing about excluding evidence. The Supreme Court imposed the rule on the federal courts in 1914 and extended it to the states in 1961. The Court's early pronouncements suggested the rule was required by the Constitution, but more recently the Court has described the rule as a judicially created remedy rather than a constitutional right of the accused. The Court is thus poised to accept the proposition that the exclusionary rule can be changed by Congress.

Complete elimination of exclusionary remedies would be unwise. There must be some limits that prevent police from running roughshod over individual rights. Unconscionable methods like torture and truth serum may yield reliable evidence, but are clearly beyond the pale.

At the same time, narrowing the exclusionary rule wouldn't endanger liberty.

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None of the democracies in Europe, or anywhere else, has an exclusionary rule like ours. None are police states. And none has crime like ours.

Judicial opinions interpreting the Constitution's due process clause forbid evidence gathering techniques that "shock the conscience." A test like that should be adopted for suppression questions. The courts would be free to weigh the good faith of the officer, the seriousness of the crime, and the impact of suppression on the public.

This change would affect only the admissibility of evidence, not the underlying violation of civil rights. Wrong police conduct would still be wrong, and addressable through existing civil remedies—which would remain in place to protect the accused.

George Dentes is the district attorney of Tompkins County, New York, and a former assistant district attorney in Manhattan.

11 ...OR GET RID OF IT ALTOGETHER

by Jagdish Bhagwati

Another alternative is to get rid of the exclusionary rule altogether. Other provisions would safeguard civil liberties just as well, and quite possibly much better.

The relaxation of the exclusionary rule in the House of Representatives crime bill, which would allow evidence seized illegally but in good faith to be admitted in court, has outraged liberals. They rely on the conventional argument that this will violate our fundamental right to be protected from unconstitutional searches. Conservatives justify the revision on the equally tired ground that criminals should not get off simply on "technicalities" (a question that arose in the O.J. Simpson trial when critical evidence, allegedly collected without proper warrant, was nearly excluded).

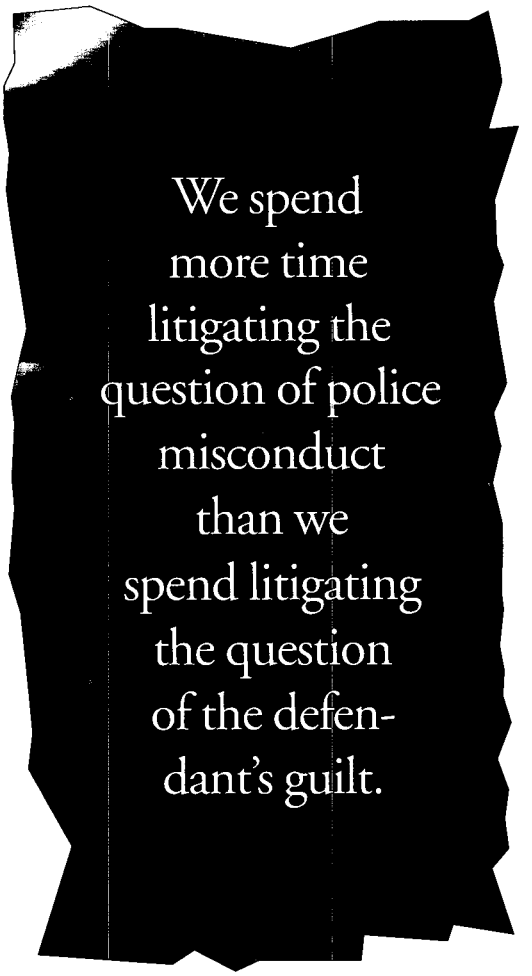
In truth, however, our current exclusionary rule and the revision proposed by the House are both inadequate. The first regularly derails justice by placing crucial evidence out of reach, while the latter excuses police violations of fundamental rights so long as they are made accidentally rather than maliciously.

A better approach emerges from economic theory—which holds that efficient achievement of multiple objectives generally requires multiple problem-solving instruments. (This is the insight that won Jan Tinbergen the first Nobel Prize in economics.) Or as our forefathers put it so well: you cannot kill two birds with one stone.

Currently, in cases where evidence has been seized in some constitutionally indefensible way, the courts must struggle to reconcile two very difficult objectives: the guilty must be punished, and at the same time citizens must be protected from overzealous police. In rejecting any use of "tainted" evidence (as was standard until the limited exemption for "good faith" behavior whose extension is now being contemplated), we forced the courts to use a single policy instrument to pursue these different, sometimes contradictory, goals.

It would surely be more effective to use two instruments to address the two problems at hand. This could be done by admitting all solid evidence in court, no matter how obtained, so that judicial determination of guilt is as accurate as possible, while simultaneously providing separate mechanisms that hold police accountable for their searches, punishing them when constitutional improprieties are legally established.

Such a solution would improve the efficiency of the criminal justice system in punishing the truly guilty, and it would also be a more effective protection of our constitutional rights. Simply excluding improperly gathered evidence deters the police from future repetitions of their violations only indirectly, via the hope that failing to bring criminals to justice will so frustrate them that they correct their ways. Direct punishment of rogue police would be a better deterrent, and it would do so without the side effect of penalizing the public by freeing known criminals into their midst.



As it happens, Judiciary Committee Chairman Orrin Hatch has introduced in the Senate a reform that fits right into the approach just outlined. Sen. Hatch's provision would kill the 80-year-old exclusionary rule, and in its place allow victims of illegal searches to sue police and collect judgments for actual and punitive damages (with the punitive damages capped at $10,000).

Alternative, and perhaps better, ways to punish and deter rogue cops could also be devised. Trigger mechanisms could be installed for the state itself to initiate the judicial action, instead of relying on individual tort action. If that were done, the state would obviously require some *prima facie* evidence that an illegal search had occurred. But this can only materialize during the trial, and with the defendant having lost the right to exclude tainted evidence, his lawyers have no incentive to establish the constitutional impropriety of the search. To get around this "incentive" problem, the reform could include a fractional mitigation of the punishment that ensues on conviction with tainted evidence.

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No matter how we get at the rogue police, it is evident that a two-track solution is needed if we are to efficiently pursue the dual objectives of just punishment for crime and robust protection for our rights. Establishing police accountability is one rail. Ending our unproductive experiment in evidence exclusion is the other.

Jagdish Bhagwati, a visiting scholar at the American Enterprise Institute, is the Arthur Lehman Professor of Economics at Columbia University.

12 OPEN UP JURIES

by Joseph E. DiGenova

Juries are not operating efficiently or fairly these days, particularly in major cities and major cases. Important reforms are needed to make juries more informed and representative, and prevent bad verdicts.

American jurors are asking for help. We must listen.

Jurors are asked to do one of the most important jobs in a democracy, yet we currently deny them the tools necessary to perform their task well. I recently conducted interviews with a selection of jurors fresh from hearing cases, and asked them how today's jury system might be changed. They suggested major reforms that could sharply improve our administration of justice.

Jurors are fact-finders, so it is not surprising they want to ask questions during trials. Lawyers and judges, while generally able, don't usually know what a jury needs, jurors say. They suggest they should be able to submit questions to the judge for consideration. Jurors are prepared to accept that particular questions cannot be asked for given reasons, but they want the opportunity to pose queries during the trial, before deliberations. There is no good reason this shouldn't be allowed, yet most judges refuse to consider it.

Jurors want to be given copies of the legal instructions delivered to them at the end of a case. In fact, they would like to have them to consult right from the beginning of the trial. They say judges lecture them on complex legal issues using words, phrases, and concepts foreign to them, and that they want to be able to read this unintelligible legalese and discuss its meaning in the jury room. Jurors do that now anyway based on recollections of oral instruction. Jurors particularly want copies of instructions on key legal concepts such as reasonable doubt. They report that hours are spent trying to deal with concepts of this sort, because they are forced to recollect specific definitions.

Jurors want to be instructed on law, definitions, and procedures throughout the trial, and before closing arguments—and not just at the end. Judges and lawyers have copies of instructions, they say, why shouldn't jurors? Again, most judges refuse to do this.

Jurors want the right to take notes during trials without the judge's permission. In complex and lengthy cases they believe this is essential. Having portions of transcripts read back to them is not as helpful as judges think, they report, and some judges refuse to do even that. The fear that a good notetaker might dominate deliberations is ridiculous, say jurors, since individuals already insist they key facts when others disagree. Judges and lawyers all have outlines of the case; the decision making jurors should too, most insist.

Finding that some of their fellow panel members can be unreasonable, irrational, and unfair, jurors believe that non-unanimous verdicts in some types of crimes would be helpful. Some states already permit this, and it is an experiment worthy of replication and analysis.

Jurors report that some candidates shade the truth during the *voir dire* proceedings where juries are selected. Individuals I interviewed were deeply offended by the dishonesty of fellow jurors who, in essence, lied to get on a trial—telling the lawyers and judge what they knew would please them, or actually hiding information. Once selected, these jurors would profess a religious conviction that they had no right to judge another, or some other prejudicial opinion. There is disturbing evidence that increasing numbers of potential jurors are violating their oaths in order to sit on cases, particularly notorious ones. These revelations require judges to be extra studious and respectful of the *voir dire* function.

Sequestered jurors told us that the circumstances of sequestration are unnatural, that in many cases people discuss the case even when they're not supposed to, and that the pressures of sequestration sometimes force decisions where none are warranted. They also reported that many jurors artificially delay their individual deliberations because they enjoy the camaraderie, attention, hotel accommodations, food, and so forth that sequestration brings.

Jurors believe they should be allowed to discuss the evidence amongst themselves as a case progresses. They believe it would force them to pay more attention and allow them to begin talking and working together earlier in the process. They suggest the end of a trial is too late for deliberations to begin, and say it is unnatural not to discuss daily testimony, evidence, and exhibits.

Many jurors believe that some of their fellow members should not have served because they had no interest in the proceedings, or were not capable of comprehending them. They believe the available jury pool is too small and that too many educated jurors are excluded. To assure attentive, intelligent, serious panels, a wider spectrum of citizens needs to be included.

Jurors believe they should be struck from service only for cause. Peremptory deletions should be eliminated. This change would lead to broader participation, shorten trials, and leave more able people on juries.

Each of the jurors I spoke with said it wasn't the power they wielded that sobered them, but rather their sense of responsibility. Lawyers, judges, and legislators should feel a similarly grave responsibility to improve the poor system in which conscientious jurors now toil. Procedures instituted a century or two ago may have been fine when jurors sat for several hours in a simple trial. They are not adequate today.

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13 HIRING POLICE AND BUILDING PRISONS PAYS OFF

by Steven D. Levitt

There are hot debates over whether the nation would benefit from more police and more prison beds. Studying some "natural experiments" over time gives clear answers: we should have more of both.

Police and prisons represent the first line of defense in the fight against crime. In 1992 there were over 700,000 police officers in the United States (almost 50 percent more than two decades earlier), and over a million Americans in jails or prisons. The annual price tag for police and prisons is approaching $100 billion per year. In spite of all this, violent crimes per capita have risen 80 percent over the last two decades.

Does that mean our spending on police and prisons is a waste of money? Some observers have jumped to that conclusion, even going so far as to propose a moratorium on new prison construction. Research I have been conducting on the connection between police and prison availability and crime rates, however, comes to very different conclusions. Both police and prisons appear to be cost-effective tools in controlling crime, and each has been increasing in number simply because the underlying crime trend has been sharply upward. High crime rates make additional police necessary; that is why Detroit has twice as many police officers per capita as Omaha. The link between the size of the prison population and crime rates is even more direct: unless a justice system is growing more lenient, prison populations will rise one for one with crime rates.

The best practical way to judge the effectiveness of police and imprisonment is to study "natural experiments" where the number of police or prisoners fluctuate for reasons completely unrelated to crime incidence. By examining the effect of these changes in police or prisons on victimization levels, it is possible to estimate causal impacts.

Mayoral and gubernatorial elections provide good ways to test the effectiveness of police reinforcements. In big cities, increases in police forces occur disproportionately during election years, presumably because incumbents want to look "tough on crime." Over the last two decades, police forces in cities with populations over 250,000 have grown an average of 2.8 percent in election years, but only 0.7 percent in non-election years.

After controlling election-induced changes in police staffing against other factors, one finds that police force expansions have large effects on crime rates. In the big cities I examined, an additional sworn officer eliminates 4.5 violent crimes and six property crimes each year. Based on the best estimates of costs of crime to victims, this reduction in crime is worth over $100,000 per officer per year. Any reduction in drunk driving, drug-related activities, arson, or fraud due to additional police would need to be added on top of that number, as would any psychological benefits to citizens from feeling safer. Given that the full costs of hiring a police officer are approximately $75,000 a year, it appears that hiring more police is a cost-effective approach to fighting crime in most cities.

Adding prisoners also appears to be a cost-beneficial strategy for reducing crime. The "natural experiment" I used in analyzing prisons grows out of prison overcrowding litigation brought by groups such as the American Civil Liberties Union. In many places, such suits have forced prison officials to release inmates. In states affected by such court orders, imprisonment levels lag the rest of the United States by an average of 15 percent over a three-year period. And during that time span, crime rates in those places rise 10 percent faster than the national average for violent offenses, and 5 percent faster for property crimes. I estimate that each additional prisoner taken off the streets eliminates between two and three violent crimes a year and over 10 property crimes. The economic benefits alone of preventing those crimes amount to approximately $45,000—well above annual incarceration costs that average $25,000 to $35,000 per prisoner.

How much crime might we reasonably hope to eliminate through increases in police and prisons? Putting another 100,000 police officers on the streets and an additional 100,000 offenders behind bars would likely reduce violent crime rates by about 10 percent. Beyond that point, diminishing returns make further increases economically unattractive.

Steven D. Levitt is a member of the Harvard Society of Fellows.

14 THERE IS NO ALTERNATIVE TO BUILDING MORE PRISONS

by Richard K. Willard

Some claim we could open up ample prison space in which to put today's egregious repeat offenders just by letting out "low-level" offenders, particularly those charged with drug crimes. These people are wrong.

Many violent criminals are turned loose today after serving amazingly lenient sentences. This has led to calls for building more prisons so that repeat violent offenders can be locked up for longer terms. Balancing this is a persistent question about whether our current prison capacity is being used properly. Some critics contend that our prisons contain substantial numbers of minor offenders, especially ones convicted of drug crimes, who can safely be released without endangering our communities. Before spending billions of dollars on new cells, they assert, we should make better use of existing space by reducing or eliminating sentences for these "non-threatening" felons.

Some of these critics cite a 1994 Justice Department study that indicated 21 percent of federal prisoners are "low-level drug offenders." The problems riddling this study start with its use of the euphemism "drug offender." In practice, virtually all of these federal prisoners were convicted of drug trafficking. These are

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not otherwise law-abiding citizens who happened to get nabbed for casual drug use. They are dealers.

Drug dealing is a serious crime. Drug dealers destroy neighborhoods. They enmesh children in their illegal distribution networks, and peddle their poisons to all. Most drug dealers use violence as part of their trade. They often carry firearms, almost always illegally. A majority of all homicides today are drug-related.

Even if one believes that some drug dealers don't deserve prison terms, the Justice Department study seriously overstates the number of federal prisoners who could be considered non-threatening to their communities. Its list of "low-level offenders" includes many with prior records of serious criminal misconduct. The study's screening protocol was supposed to eliminate offenders with a history of violent crime, but further analysis showed that a significant percentage of persons charged with crimes of violence got through. Moreover, many of those with "non-violent" records had been charged with such serious felonies as burglary, a crime that certainly is a serious threat to community safety. In addition, 45 percent of the first-offender drug traffickers the study presents as candidates for release are non-U.S. citizens—and no consideration was given to whether these individuals might have prior criminal records abroad, and so not even be first offenders at all.

Another factor bedeviling the study's claim to have identified a large population of non-threatening prisoners is the fact that many records of juvenile arrests and convictions—even for the most serious violent crimes—are sealed or expunged and thus unavailable to researchers. Many a putative first offender actually has a lengthy record of prior criminal conduct as a juvenile. It is quite predictable that most of those convicts will commit violent and predatory crimes as soon as they are released.

A more fundamental problem with using this study to argue that our prisons contain significant numbers of harmless individuals is this: the Justice Department research covered only the federal prison system—which contains less than 7 percent of the country's total prison population. And, unlike their federal counterparts, only a small proportion of state prisoners are drug criminals. There are just 27,000 first-time drug offenders in state prisons today—less than 4 percent of the total state prison population.

It is thus hard to see how our states could free up much prison capacity by adopting more lenient sentencing policies for drug offenders. The vast proportion of first-time drug offenders already receive pretrial diversion, probation, or short sentences in local jails only. Among all drug offenders who go to state prison—including many repeat offenders—the median time actually served behind bars is only 12 months.

It is certainly true that we should optimize our use of limited and costly prison capacity. And it may be possible to release some small number of prisoners following drug treatment. In such cases, there should be frequent drug testing backed up by mandatory incarceration if drug use persists.

Reducing drug sentences, however, will not solve our shortage of prison capacity. In state and federal penitentiaries alike,

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most prisoners have long histories of anti-social criminal conduct. Huge numbers are chronic offenders. These are people who are unlikely to be rehabilitated, and releasing them will only increase victimization and crime losses across the larger society. We must provide sufficient space in our prisons so that these repeat and violent criminals can be incapacitated for much longer sentences than are now being imposed—not shorter ones.

Richard Willard, a former assistant attorney general, is a partner with the Washington, D.C. law firm of Steptoe and Johnson.

15 RUN PRISONS DIFFERENTLY

by Charles H. Logan

Forget about rehabilitation—prisons are for punishment. We need to adhere much more closely to the original court-ordered sentences of convicts and make our punishments stick. We also need to build more prisons. To get the most bars for our buck we should allow our prisons to be privately run.

Prisons are the favorite whipping boy of every critic of the American criminal justice system. Some say we have too many of them, others too few. It is argued that prisons are too full, that they cost too much, that they have become too comfortable, or not comfortable enough. There are questions as to whether they rehabilitate, deter, or even incapacitate.

Some of these controversies would clear up if we had a better understanding of the practical and moral importance of prisons. Punishment through imprisonment is above all else an expression of our sense of justice and of the value our society places on freedom and on individual responsibility. Doing justice is the true mission of our prisons, and the single most important thing we can do to aid them is to purge them of any official responsibility for rehabilitation.

Prisons should not try to be "correctional institutions." Changing behavior is not impossible—the majority of those released from prison do not return—but it happens only through self-restraint and individual reform. When we define rehabilitation as a collective responsibility to be achieved through the criminal justice system, the principle of accountability gets blurred.

The message of prison should be simple: "Felonies are wrong and controllable acts, and those who commit them will be punished." Institutions aiming for "rehabilitation" more often transmit this muddled message: "Felonies are the result of social and personal deficiencies (of opportunity, knowledge, skills, habits, temperament, and so on), and society has a responsibility to correct those deficiencies." That message depicts criminal behavior as uncontrollable rather than willful, and portrays offenders as automatons in need of adjustment rather than responsible human beings who must accept the consequences of their actions. Such a message may excuse, and even encourage, crime; at the very least, it weakens the vital punishment message of imprisonment.

"But," we are warned, "most prisoners will return to society eventually; don't we want them to come back prepared to lead noncriminal lives?" Indeed, we do. We not only want that, we demand it—but we demand it of the victimizer, not of the prison system. And in this we do not ask much: Do not hit, rob, rape, kill, swindle, or otherwise aggress against your fellow citizens. Those whom we send to prison, rather than to a mental hospital, already have all the equipment they need to refrain from crime. What they do with their lives beyond that is not the business of the penal system.

So, how can we improve the effectiveness of prisons in curbing anti-social behavior and carrying out justice? For one thing, sentences need to be less rubbery. Most prisoners today have committed crimes that average citizens strongly believe should lead to imprisonment, and the specific sentences imposed generally reflect a broad consensus about the seriousness of various crimes. Once handed down, these sentences should be served in their entirety. To convey a clear message about the wrongness of crime, we need a system in which punishments are carried out fully as prescribed. When sentences get reduced sometime after sentencing for expedient reasons we end up with unfairness (as when a murderer ends up doing less time than a thief) and mixed signals to lawbreakers (as when a crime that is declared to deserve 10 years of loss of liberty actually only brings three years). Thus we need truth in sentencing: a requirement that all prisoners serve at least 85 percent of their sentence.

To meet the current level of serious crime in the United States we also need more prisons. We can afford this—prisons remain a small, if growing, portion of government spending. But we certainly don't want to waste money on them. How can taxpayers tell if their government is giving them good value for their prison dollars? The best guarantee is to put the government in competition with the private sector.

As of June 1994, there were 84 private prison facilities with a total capacity of 43,508 beds under contract with various government bodies. A growing body of research demonstrates that these private prisons save money, improve quality, and protect inmates' rights, and that they produce no problems not already faced by governmental operations. Prison privatization has been called "controversial," but most of the resistance has been manufactured by dedicated opponents like public employee unions who feel threatened at the prospect of competition (as well they should). A decade of mostly positive experience has proven the value of private prisons.

That's why politicians of both parties now support them at the national level, as they long have at the local level. When the Reagan administration requested money for the private operation of one federal prison, a Democrat-dominated Committee on Appropriations denounced the idea and denied any funding. But the Clinton administration's proposed budget for fiscal year 1996 calls for the contract operation of four planned federal prisons, and for the privatization of most lower-security federal prisons and detention facilities built in the future. Even greater privatization of prisons and jails should be considered, by all levels of government.

Charles Logan, a professor of sociology at the University of Connecticut, is the author of Private Prisons: Cons and Pros.

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16 USE DRUG TESTS TO REDUCE DEMAND FOR NARCOTICS

by James Q. Wilson

Many of our worst drug abusers—who spin destruction across society through their habits—are already under the supervision of the criminal justice system because they are on probation or parole. By drug-testing these individuals frequently and punishing them for use, we can take a big bite out of total drug demand.

There is no doubt that drugs, especially crack cocaine, contribute to crime. What divides experts is why. For some, drugs cause crime because they are illegal: people steal in order to afford their fix, or shoot rivals in order to control illegal markets. For others, drugs cause crime because they alter the subjective state of drug users: drug abuse makes people unfit for regular employment and unable to manage their own lives. Whichever view one takes, crime would be less if the demand for drugs were less.

There is some reason to think that drug demand has in fact declined from 1980s peaks, but this drop is confined almost entirely to light or casual users. For cocaine at least, the number of regular users and the amounts they consume have increased dramatically. As a result, the cocaine problem is as bad today as it was 10 years ago in terms of total consumption, and far worse in terms of its concentration among heavy users.

Efforts to reduce drug demand by choking off supplies so that prices rise have had little if any effect. The price of cocaine has been declining and its purity has remained high. Given the vast resources pumped into supply reduction, this seems puzzling, but it can be explained by the economics of drug production.

Experts at the RAND Corporation estimate that the price of cocaine in transit to the United States is $17,000 per kilo, but on U.S. streets that same kilo is worth $129,000. That enormous spread means that even if authorities manage to seize 1 out of every 10 kilos shipped (which seems to be about as much as can be hoped for) the street price on the supplies that get through need only be raised by 1.5 percent to make up for the lost shipment.

Urine tests in jails show that a majority of newly admitted inmates were using drugs within a day or two preceding their confinement. In the course of a year or two, a large fraction of the heavy crack users in this country fall under the supervision of the criminal justice system.

This has led most experts to conclude that it is more cost effective to invest in treatment programs—if they work. They do work for people who remain in them. The trouble is that many users, especially young ones, are not really seeking a permanent break from the drug. Increased emphasis on treatment will reduce drug demand among heavy users only if more of them become motivated to end their abuse.

One way to make them as motivated is coercion. This is neither as organizationally difficult nor as constitutionally dangerous as one might suspect—if we take advantage of the fact that cocaine use has become concentrated among a relatively small population.

Urine tests in jails show that a majority of newly admitted inmates were using drugs within a day or two preceding their confinement. In the course of a year or two, a large fraction of the heavy crack users in this country fall under the supervision of the criminal justice system. For this reason, prison-based drug treatment programs should be expanded. But they have two limits: First, without community-based follow-up, the relapse rate is likely to be high. Second, three-quarters of all supervised offenders are on the streets on probation or parole, not in prison.

Several experts, notably Mark Kleiman, Eric Wish, and Robert DuPont, have proposed making probationers and parolees subject to frequent, random drug tests, with modest but increasingly severe sanctions if they fail the test. Given the short time horizon of drug users, "frequent" would mean several times a week and the sanctions (a night or two in jail, a week on an arduous work crew) would have to be promptly imposed.

Because we would be testing persons already under the supervision of the criminal justice system, the civil liberties problem would be much reduced. Probationers and parolees are not subject to the full protection of the constitutional bar on unreasonable searches, and, in some states, have waived such protection as a condition of their release.

We know from studies that coerced participation can improve the chances of successful treatment. Kleiman estimates that the cost of the testing would be about $2,500 per person per year. There would be additional costs for sanctions, but these could be relatively low if punishments were mild but swiftly applied. All of these outlays would be partially offset by a reduction in drug-caused crime and the attendant investigatory and imprisonment costs.

Such a program has been tried on a pilot basis, but never in a large jurisdiction for an extended period. In order for this to be done, probation, parole, and police officers would need to become aggressive about identifying and testing drug-abusing convicts, judges would need to respond crisply to those who failed the tests, and correctional authorities would need to create a graduated set of sanctions.

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Some of our new drug courts may be able to achieve these things. But the task would not be easy, as it would require our criminal justice system to succeed at some things it has generally not been good at.

James Q. Wilson is James A. Collins Professor of Management at UCLA, and chairman of AEI's Council of Academic Advisers.

17 CONTROL, TRACK, AND LOCK UP SEX PREDATORS

by Marc Klaas

Violent sex criminals cannot be cured. They will prey on innocent people, especially children, repeatedly throughout their lives unless they are tightly controlled. Sex predators ought to undergo behavior modification therapy, they ought to be tracked closely and revealed to their neighbors, and many of them ought to be locked up for long sentences.

Did you know that offenders who continue to perpetrate sexual assaults against children commit an average of 380 molestations in their lifetime? In 1986, one out of eight violent offenders in state prisons were serving time for victimizing a child. This totals 40,000 young victims. Did you know that the rape rate of girls under 17 is four times the adult rate? Did you know that in California there are 65,000 registered sex felons, and only one out of every five arrests for child molestation results in a conviction? Every child in American is at risk from sexual assault.

The typical child molester tends to be a mild-mannered, friendly person who seeks employment that gives him access to children. Ashley Estell was abducted, molested, and murdered while attending her brother's soccer match in Plano, Texas in 1993. Videotape confiscated as evidence identified three pedophiles in attendance, including the referee.

Forensic research units at state hospitals throughout the United States have had sex offender rehabilitation programs for years. According to Dr. Chris Hatcher, a clinical psychologist at the University of California, San Francisco, professionals can expect to gain only slight control over the impulses that drive sex felons. Efforts to cure child molesters do not work—because they are driven by compulsions, like alcoholism, that have never proven curable. If any degree of suppression is to be achieved, long-term treatment, behavior modification, and drug therapies are necessary.

> Robbery or carjacking are no more about property than rape is about sex. Violent crime commandeers the victim's person and liberty. It is an act of enslavement.

Legislative solutions are necessary to protect society from recidivist sex felons. States that adopt sex offender registration laws that notify communities and monitor sex offenders released back into society send a clear message. "We are not going to take it anymore. Deviant behavior will not be tolerated in our jurisdiction." Because of the transient nature of sexual offenders, the information collected in these databases must be made available to law enforcement officials throughout the country.

The aim of sex offender registration laws that include community notification is fourfold: to assist law enforcement investigations; to establish legal grounds to hold known offenders found in suspicious circumstances; to deter offenders from committing new offenses; and to offer citizens information so they can protect themselves. To allay fears of retribution, California's statute has a felony enhancement of five years in prison for anyone who uses public notification information to persecute a released offender.

The FBI estimates that of all federal and state arrest fingerprint cards processed, two-thirds of the subjects have prior arrests. Of those, 25 to 30 percent have both federal and state arrest records in more than one state. Therefore, a law enforcement official in Wisconsin ought to have the same information that's available to his counterpart in California. In 1984, the Interstate Identification Index (III), a voluntary, decentralized national recordkeeping system for criminal histories, was established to make rap sheets available to law enforcement at the patrol car level. Of the 50 million criminal sheets available in states today, the III database contains only about 20.5 million. It is a betrayal of the public trust that 21 states don't supply the III with the criminal backgrounds of paroled violent and sexual felons. This should be remedied.

Meanwhile, the deterrence value of prison for sex offenders is pitiful in most places. Habitual offenders, including child molesters, serve an average of just 37 percent of their sentence behind bars. Victims of sexual assault spend years recovering from the horror of molestation, yet the average rapist is in jail for only three years, and the average child molester serves only 2 1/4 years in prison. Citizens everywhere must demand truth-in-sentencing laws based on the federal standard of 85 percent of sentence served as a minimum. Every day a child molester is behind bars is a day he cannot victimize an innocent youngster. By focusing our incarceration efforts on truth-in-sentencing with sentence enhancements for repeat crimes, we can save the lives of countless children. The person accused of murdering my daughter Polly Klaas has a violent criminal history dating back over 20 years. Yet he served less than half of a 16-year prison term for the assault and robbery of his second kidnap victim. Less than three months later, Polly was dead.

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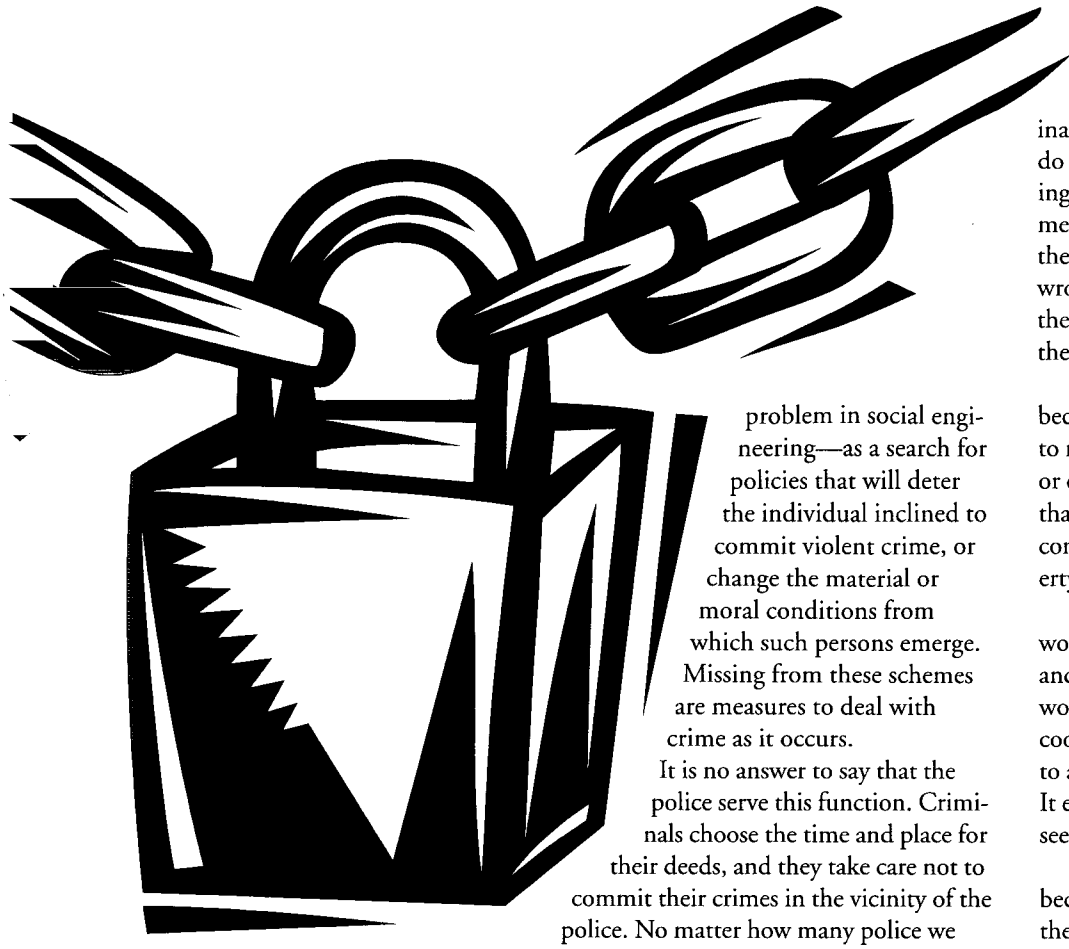

We are waging a war for our children's security. The public must insist that legislators at all levels support laws necessary to protect the young. In the process of creating a safe future for our children we will create a safe nation for all innocent citizens.

Marc Klaas is co-founder of the Marc Klaas Foundation for Children in Santa Rosa, California, which can be reached at (800) 685–1321.

18 FIGHT BACK. PERSONALLY.

by Jeffrey R. Snyder

Defense of your self, your family, and your property is not somebody else's responsibility. Every citizen should be personally prepared to resist maraudings—which are a kind of enslavement—else the moral sanctions against criminal behavior fade away.

The question of what to do about violent crime is often addressed strictly as a problem in social engineering—as a search for policies that will deter the individual inclined to commit violent crime, or change the material or moral conditions from which such persons emerge. Missing from these schemes are measures to deal with crime as it occurs.

It is no answer to say that the police serve this function. Criminals choose the time and place for their deeds, and they take care not to commit their crimes in the vicinity of the police. No matter how many police we place on city streets, they simply will not often be there when they are needed.

There is, however, one person who is always at the scene of the crime and able to do something about it then and there—the intended victim. Amazingly, our policy discussions about crime never ask whether the intended victim has a duty to himself, his family, and his community to defend himself, and stop the criminal before he preys upon others.

The fact that both liberal and conservative crime policies studiously avoid the remedy of self-help reflects our desire for government to "solve" the problem institutionally, without our participation. Indeed, law enforcement and the media typically counsel us that when confronted by violence or the threat of violence we should simply hand over the goods and accede to the criminal's demands. Let the state deal with the villains.

The problem of rampant crime, though, can't be addressed without discussing the moral responsibility of intended victims. The notion that citizens ought to leave crime to be dealt with by the state, and ought not resist personally, amounts to a monstrous collaboration with immoral conduct. Why should criminals respect our lives or our liberty if we do not ourselves hold them worth fighting for? If criminals are not met with immediate outraged resistance, why should they believe that what they are doing is wrong? Because laws make it so? Then their offense is solely against the state, not the person of the victim.

To say that victims should cooperate because no wallet or car is worth a life is to rationalize moral cowardice. Robbery or carjacking are no more about property than rape is about sex. Violent crime commandeers the victim's person and liberty. It is an act of enslavement.

Your wallet or your car may not be worth your life, it is true, but your liberty and dignity are. If those things are not worth fighting for, they do not exist. To cooperate in order to preserve your life is to affirm that you may be ruled by force. It encourages the very predation we all seek to avoid.

Violent crime flourishes in good part because each of us refuses to condemn the violent criminal with our deeds at the precise moment when that condemnation is required, believing instead that laws will "communicate"—and are sufficient to enforce—values we are unwilling to battle for ourselves. We marvel that crimes that 30 years ago were unthinkable have become commonplace, never seeing that the increased depravity of criminals mirrors our own refusal to act upon moral judgment.

Let the social engineers do their best. Perhaps their reforms can save us, without our participation. More likely, violent crime will continue to flourish and criminals will grow bolder, for the streets of America are currently a moral vacuum where each person believes his safety is someone else's responsibility. Criminals will hold the upper hand until we learn, and teach, that fighting crime is everyone's responsibility. Dignity and liberty require no less.

Jeffrey R. Snyder, an attorney working in Washington, D.C., publishes a quarterly journal entitled Arms, Law & Society.

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RUNAWAY JUDGE

HOW HAS THIS MAN...

HELD THE STATE OF MISSOURI HOSTAGE FOR 18 YEARS?

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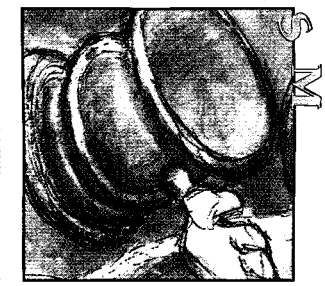
JUDICIAL ACTIVISM



By Blake Hurst

United States District Judge Russell Clark, who is presiding over the Kansas City desegregation case, is a wonderful poster child for the imperial judiciary.

Missouri is in the middle. We're in the middle of the country, in the middle of per capita income (24th), average in population, and in the middle of the road politically, electing about as many Republicans as Democrats. But we lead the country in overreaching judges; desegregation cases in St. Louis and Kansas City are the most costly and extensive in the history of such litigation.

U. S. District Judge Russell Clark, who is presiding over the Kansas City desegregation case, is a wonderful poster child for the imperial judiciary. His desegregation remedy in *Jenkins v. Missouri* is breathtaking in its reach and staggering in its cost. Surely segregated schools are an affront to the Constitution, but just as surely there is a limit to the power that the Constitution grants the judiciary. Judge Clark has gone so far as to declare that the Kansas City school district should have no "floor covering with unsightly sections of mismatched carpeting and tile, and individual walls possessing different shades of paint." We've come a long way from John Marshall to a federal judge who fancies himself an interior decorator.

Currently, Missouri is making its third trip to the Supreme Court to appeal one of Judge Clark's decisions; the state has appealed Clark's decisions to the Eighth Circuit Court of Appeals 16 times. In its most recent brief the state argues that the remedy is "ageless in its reach into the past, and timeless in its ability to affect the future." And who could disagree? The original court case, *Jenkins v. Missouri*, was begun in 1977 and settled in 1984, with its first impact upon the state budget occurring in 1986. Since then, Missouri has spent over $1 billion to implement the remedy, and there is no end in sight. In its *amicus curiae* brief filed on behalf of continuing the present remedy, the Clinton administration points out that the magnet school system, ordered by Judge Clark, was not fully implemented until 1992. Because the remedy cannot end until the last "vestiges" of discrimination are removed, one must presume that the Clinton administration will not be willing to leave Kansas City alone until the Class of 2005 graduates.

The desegregation remedy and Judge Clark are detested throughout Missouri; Clark has been under the protection of federal marshals. Every politician in Missouri, from dog-catcher to senator, has an opinion about desegregation, and all those opinions are negative. The costs of the remedy are widely blamed for the defeat of a tax increase earmarked for education that appeared on a statewide ballot in 1992. The margin of defeat was immense, especially in out-state Missouri; in post-election interviews, voter after voter was quoted as fearing that any tax increase for education would "be spent by Judge Clark." Both candidates for governor in the 1992 election criticized the remedy. As a candidate, Missouri's present governor, Mel Carnahan, advocated reaching a settlement among all parties "to cut our losses." Carnahan said of his predecessors' efforts to fight the desegregation cases: "they've lost the hearings on individual payments 50 or 100 times. We lost. We lost bad. For us to waste more money on lawyers is highly irresponsible." But Carnahan the governor is back in court again. Seems that Judge Clark has exhausted the patience of yet another Missourian.

Judge Clark's remedy consists of a magnet school plan, a capital improvements plan, a scheme for improving student achievement, a voluntary interdistrict transfer plan, and a plan for increasing teachers' pay. The remedy is administered by a 13-member committee, appointed along perfectly politically correct lines; the number of black, Hispanic, and white members were all dictated by the judge.

The Kansas City case has been so obscenely expensive because of two crucial decisions that Judge Clark made early on. First, he excused all school districts except Kansas City from the remedy. This kept Clark from using the traditional means of desegregation, forced busing. In the short term, this made the decision more palatable, but over the long term it has proved terribly expensive. Second, Clark deemed

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that the schools should be 60 percent minority, even though the school district had over 70 percent minority enrollment at the time of his decision. Because suburban districts were not held liable, increased white enrollment had to come from the voluntary attendance of suburban students. Hence the magnet school plan. But suburban students have been slow to enroll, even though the school district has spent over $1 million a year to attract whites. (As Jack Cashill, Kansas City writer and radio personality has written, research done after the magnet school plan was put into effect showed that "nearly 80 percent of suburban parents wouldn't put their kids on a bus for more than 30 minutes even if it were headed for Yale.")

Magnet schools have in the past cut off minority admissions because not enough white students were willing to enroll; this enraged black parents. Although the magnet schools had room for additional students, admitting more black kids from the neighborhood would have upset the ratios needed to reach Clark's goals. It seems ironic that the putative victims of past discrimination could not benefit from the remedy to that discrimination because of a numbers game. Subsequent court decisions have dropped the goal for non-minority enrollment from 40 percent to 30 percent and allowed the enrollment of more black students in the magnet schools.

Throughout the extended litigation, from 1977 to the present, Judge Clark has widened the scope of what the state of Missouri must do in order to satisfy the court. Even before the first court order, the school district had undertaken a busing plan that involved changing the school enrollment of over 16,000 Kansas City students. Patterned after previous desegregation efforts in the South, the plan had won the approval of HEW, which certified that the state was in compliance with Title VI of the 1964 Civil Rights Act. Although Judge Clark disagreed with HEW, his first plan had a modest price tag of $88 million. But each time the state has protested and lost, Clark has raised the ante.

Clark took his boldest step into uncharted constitutional waters with his 1987 decision imposing an income tax surcharge and doubling property taxes in the Kansas City school district.

Clark took his boldest step into uncharted constitutional waters with his 1987 decision imposing an income tax surcharge and doubling property taxes in the Kansas City school district. Clark opined that he was "left with no choice but to exercise…broad equitable powers…[to] insure that the constitutional violations committed by the Kansas City Missouri School District and the State of Missouri are cured." The Appeals Court threw out the income tax surcharge, saying that it "invaded the province of the legislature," but allowed the property tax increase to stand. With judges like Russell Clark, it is nice to know the legislature has some "province" left.

In 1990 and 1992, the plaintiffs requested that salaries of district non-teaching personnel be increased in the district. Both times, Judge Clark approved the salary increases, circumventing the normal collective bargaining process and again increasing his reach, since the original salary increases he required had only covered teachers. When the state protested that it had satisfied the original remedy, the Eighth District Court replied that the success of a desegregation remedy could not be measured solely by the funding of programs required by the remedy. The court went on to say that a district could not be "unitary" (unitary being that state of bliss reached when a federal judge is no longer running the school) if student achievement was still low. Test scores were cited as a measure of student achievement. In a blistering dissent, 5 judges of the 11-member court pointed out that low test scores were the only factor standing in the way of unitary status, and by requiring increases in test scores the court had "created a hurdle to the withdrawal of judicial intervention that had no support in the law." The state agreed, and opening arguments in the case were heard by the Supreme Court in the second week of January this year. Meanwhile, back in Missouri, Judge Clark has expanded the scope of the plan again by ordering the razing of 57 homes and an apartment complex in Kansas City to provide room for the construction of yet another magnet school.

There are already 36 elementary magnet schools, 12 middle school magnets, and 10 magnet high schools. Supreme Court Justice Anthony Kennedy describes the schools in Kansas City as follows:

> High schools in which every classroom has air conditioning, an alarm system, and 15 microcomputers; a 2,000-square-foot planetarium; greenhouses and vivariums; a 25-acre farm with air conditioned meeting rooms for 104 people; a Model United Nations wired for language translation; broadcast capable radio and television studios with an editing and animation lab; a temperature controlled art gallery; movie editing and screening rooms; a 3,500 square foot dust free diesel mechanics room; a 1,875 square foot elementary school animal room for use in a Zoo Project; swimming pools; and numerous other [extravagant] facilities.

Justice Kennedy failed to mention the Russian fencing instructor (former coach of the Russian Olympic team), the Classical Greek magnets, the Environmental Science schools, the Military Science school, or the mock courtroom at Northeast High, complete with jury room and

Blake Hurst is a writer living in Tarkio, Missouri. In addition to his journalism, he farms several hundred acres, runs a greenhouse business with his wife, and is president of the local school board.

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judge's chamber. Yet the magnet schools have not enticed suburban whites to the Kansas City school district; the present percentage of minorities enrolled in the district is 74 percent, nearly the same as when the remedy began.

In order to replace older buildings and build the new magnet schools, Judge Clark ordered the district to go on a construction spree, with 49 major projects. Budget overruns, $700 light fixtures, and the $32 million Central High have been the result. More than $1 million was spent on renovating the old Central High, then it was torn down and replaced by the hugely expensive new school. Amenities at the new Central High include a gymnastics facility the size of several classrooms, a wrestling room, a handball court, a racquetball court, and a huge swimming pool complete with an underwater observation room. Originally slated to cost $320 million, the capital improvements program budget was raised to $505 million in a series of over two dozen court orders by Judge Clark. Capital improvements have cost $544 million to date, and many experts predict the total cost will exceed $600 million.

Besides the Kansas City school district and unemployed Russian fencing instructors, the big winners in the case have been lawyers. Each time the state contests the remedy in court, the taxpayers of Missouri must pay the legal fees for both sides. By 1992, the attorney general reported that he had spent over $4 million fighting the case, and the courts had awarded nearly $9 million to lawyers for the original plaintiffs. An interesting note is that the original plaintiffs were children of Kansas City School Board members. The judge realigned the case, making the school district a defendant, and found the district and the state jointly liable. Never has being found guilty paid so well as for the Kansas City school district.

No discussion of this case would be complete without mention of former Kansas City superintendent Walter Marks. Marks came to the district after a less than distinguished career in California, when he left his former district in bankruptcy and as the subject of a grand jury investigation. His new job was a marriage made in heaven: the Kansas City school district had almost unlimited funds, compliments of Judge Clark, and in Walter Marks it had an administrator willing to spend them. But 1995 has not been kind to Mr. Marks. He was canned by the Kansas City school board on February 1. In his three years as head of the schools, Marks made 27 trips, 14 in the last year alone. His travel made the front page of the *Kansas City Star*, as did an even more damaging story about his health. During a paid leave of absence because of back problems, Mr. Marks was filmed by a Kansas City news crew carrying 2x4's into his new home in Florida. On his trip back to Kansas City to put out the media brush fire, he was observed striding rapidly onto the plane, but by the time he reached Kansas City, he needed a cane to make it off the plane.

The cost of Judge Clark's desegregation plan has affected every part of the budget of the state of Missouri, including roads, bridges, and prisons, but especially the other schools in the state.

The cost of Judge Clark's desegregation plan has affected every part of the budget of the state of Missouri, including roads, bridges, and prisons, but especially the other schools in the state. According to Attorney General Jay Nixon, Missouri spends 44.6 percent of its elementary and secondary education funds in Kansas City and St. Louis though the two districts contain only 9.1 percent of the state's students. Per pupil costs in Kansas City are two-and-a-half times the state average. Missouri has lost 26 school districts in the last 15 years, as smaller districts closed due to lack of funding. In September 1991, after Judge Clark increased the cost of the capital improvement program, the state was forced to cut funding to other schools in the state by $52 million. A state education commissioner reported that the spending cuts would increase the number of Missouri school districts operating in the red from 16 to 48. Judge Clark's folly costs the average Missouri school district a cool quarter of a million dollars per year. Although state-by state comparisons of education funding often suffer from the reverse of the Lake Woebegone effect—all states below average in the statistics compiled by the National Education Association—Missouri does rank near the bottom in per pupil funding. The funds soaked up by Kansas City, if allocated equally across the state, would increase the per pupil expenditures by a substantial amount.

The costs borne by each and every Missourian in this never-ending effort to build the finest school system the world has ever known would be more bearable if the result was a better education for the kids. But as the school district freely admits in its brief filed in the most recent Supreme Court case, student performance has been disappointing. And we shouldn't be surprised. In a review of over 187 studies on educational funding and performance, University of Rochester professor Eric A. Hanushek concluded "there is no systematic relationship between school expenditures and school performance." As Mark Bredemeier, counsel for the Landmark Legal Foundation points out in his brief in the present Supreme Court case, expenditures per pupil in the United States have more than doubled in the last 20 years. During the same period, test scores have fallen. Bredemeier points out that none of the top 10 states in student performance are in the top 10 in funding. Amy Morantz, in a study of the Kansas City district for the Harvard Project on School Desegregation, put it even more baldly: "After an expenditure of money that is unprecedented in national terms, the school district has not achieved the desegregation goals specified by the court, and it's unclear if there will be lasting improvements in educational quality."

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The case now before the Supreme Court finds the district arguing that state funding should continue because test scores have not improved. Think about that for a minute. The state of Missouri should continue to send $150 million to the Kansas City school district each and every year, until the end of time, because the school district is not doing its job. I guess merit pay for Mr. Marks's successor will include bonuses for low test scores.

Common sense and previous Supreme Court decisions (not necessarily the same things) both demand that the court-ordered remedy be commensurate with the constitutional harm caused by segregated schools. As Missouri attorney Todd Graves points out, the Supreme Court, in a previous desegregation case, *Milliken I*, said "the scope of the remedy is determined by the nature and extent of the constitutional violation." Segregation officially ended in Kansas City with the *Brown* decision in 1954, and the court found no evidence that the state had sponsored residential segregation since that time. The court also found that school district boundaries were drawn locally in Missouri, with no "taint of racial animus." The state of Missouri's only constitutional violation was to fail to "affirmatively act" to remove the dual system that existed before 1954. And even though neighboring districts were not guilty of constitutional violations, making the case solely an intradistrict matter, the remedy that Judge Clark has imposed is interdistrict in nature, with the magnet schools aimed at suburban students, and of course the costs of the remedy are being borne by school districts across the state. Judge Clark blamed poor student performance in Kansas City on segregation, and his original goal was "suburban comparability" in resources. But now even Clark admits that Kansas City has facilities and opportunities "not available anywhere else in the country." Shouldn't that be enough? Shouldn't the goal of any desegregation case be the provision of equal opportunity to all students? If that were the case, then Kansas City should have long since reached unitary status, because by any definition of equality, a school district that spends two and a half times the state average per pupil is providing its students an equal opportunity.

Early this summer, the Supreme Court will decide whether an unelected judge should take the place of the local school board, the voters, the governor, and the legislature of the state of Missouri.

Judge Clark's successful 1987 appropriation of the power to tax is perhaps the most shocking aspect of the case. To a layman, the Constitution is rather specific in its separation of powers. It is clear that the power to levy taxes rests with the legislature, and ultimately with the voters. "Taxation without representation" brought about the American Revolution, is expressly criticized by Jefferson in the Declaration of Independence, and the Constitution grants the power to "lay and collect taxes" to the Congress. If this principle of self-governance needed to be stated any more clearly, the Supreme Court did so in its decision in *Rees v. the City of Watertown* in 1873:

> This power to impose burdens and raise money is the highest attribute of sovereignty, and is exercised, first, to raise money for public purpose only; and, second, by the power of legislative authority only. It is a power not extended to the judiciary. Especially it is beyond the power of the Federal judiciary to assume the place of a State in the exercise of this authority at once so delicate and so important.

Obviously, Judge Clark feels that the "broad equitable power" granted him supersedes the Constitution and Supreme Court precedent.

Throughout the case, it has been argued that Kansas City cannot maintain the system that Clark has built without the deep pockets of the state of Missouri. And that is probably true. But surely "unitary" status does not demand anything quite so elaborate as the present Kansas City schools. A remedy that includes spending $34,000 to send Kansas City Southeast High students to Mexico and Senegal (Senegal?) is surely excessive when the goal is to correct segregation that ended over 40 years ago. Unlike many urban districts, the Kansas City school district is not poor. Average assessed valuation per pupil, the basis of local funding for schools in the state, is 15 percent higher in Kansas City than the state average. The district is quite capable of financing a quality school system for its students, and could do so without the extraordinary help of the state of Missouri. If the remedy ever ends, the Kansas City schools will be as well financed as other schools in the state.

The Supreme Court will hand down its latest decision in this long-running litigation in early summer. The court may well do as the original plaintiffs desire, and rule against the state on Missouri's appeal of court-mandated salary increases and the use of test scores as a means of deciding "unitary" status. Or the Court may rule against the plaintiffs, but so narrowly as to allow the remedy to continue. However, four of the five judges that were in the majority the last time the state of Missouri appeared before the Court on this matter are no longer on the bench. The new justices may re-examine this misguided exercise in social engineering. If they do, they will ask whether Judge Clark's plan will ever reach its stated goals and whether an unelected judge should take the place of the local school board, the voters, the governor, and the legislature of the state of Missouri. The answer to both those questions is clearly no.

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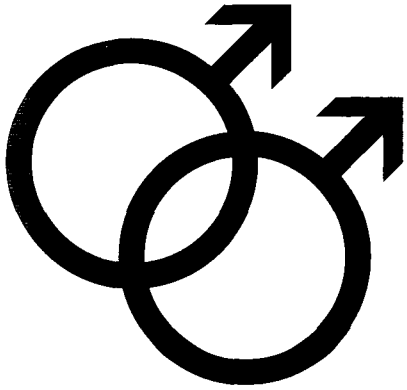
JUDICIAL ACTIVISM

Will Hawaii's Imperial Judges Give Us

Gay Marriage in 1996?

Hadley Arkes



FOR THE PAST YEAR-AND-A-HALF, THE MOST EXOTIC STATE IN AMERICA HAS DANGLED BEFORE US THE POSSIBILITY OF TAKING OUR LAWS INTO THE REALM OF SHANGRI-LA. AS WITH MOST MOVES THESE DAYS TO BRING ABOUT A REVOLUTION IN THE LAWS, THE INITIATIVE HAS COME FROM THE COURTS, NOT THE LEGISLATURE. THE RESULT IS THAT WE MAY NOW EASILY IMAGINE THE SCRIPT OF A COMMERCIAL AIRING IN 1996 TO PROMOTE A NOVEL SORT OF TOURISM: "HAWAII, LAND OF THE LUAU AND POI, THE ISLAND OF TROPICAL PARADISE, NOW OFFERS YOU GAY MARRIAGE AND INVITES YOU TO TAKE YOUR MARRIAGE LICENSE BACK HOME WITH YOU."

In 1993, in the case of *Baehr v. Lewin*, the Supreme Court of Hawaii was willing to sustain a challenge to the traditional laws on marriage by drawing out the implications contained in the Hawaiian version of the Equal Rights Amendment. Like the amendment that failed at the national level, the Hawaiian ERA forbids discriminations based on sex and gender. When the original ERA was a live issue in national politics, some asked whether the logic of the ERA would require the acceptance of "homosexual marriage." The partisans of the ERA sought to finesse the question, or steer round it. But now the judges in Hawaii have drawn precisely the conclusion that the supporters of the ERA had sought so artfully to disclaim: The traditional laws on marriage do make a discrimination based on gender, because they grant a marriage license to a heterosexual couple while they deny it to a couple composed of two persons of the same sex.

Since judges have turned themselves into lawgivers, they have had to cultivate the arts of delicacy, and so the Hawaiian court deftly held back from drawing the conclusion fully. For the moment, the court simply recorded the judgment that discriminations based

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on sex were now "suspect classifications." The state could be obliged then to bring forth a "compelling" interest to justify discrimination against homosexual couples. The matter was returned to the lower courts, where the decision can unfold in stages and soften the shock of surprise. But the court has framed the problem, defined the premises, assigned the burdens of argument; and so the result seems to have been foretold.

Still, a movement arose in the legislature to reaffirm the traditional laws on marriage. Surveys showed that nearly 70 percent of the public were opposed to "same-sex marriage," and the issue soon became the preeminent question in the legislature.

But even with this mounting wave of public sentiment, a legislature led by the Democrats showed no will to move the bill out of committee. The lawmakers had to be prodded by a group called Stop Promoting Homosexuality Hawaii, an organization formed by Michael Grabbard, a young restaurant owner with five children. Grabbard printed the names and phone and fax numbers of key senators who were holding out, and the result was an avalanche of calls and letters. This past June, the legislature finally passed a bill reasserting the traditional law. Gay activists were sobered as the bill passed the House 36–12, and the Senate 21–4.

And yet, all of this may be so much a frenzy of activity without consequence. The judges have already given their rendering of the state constitution, and this reading would have to take precedence over any ordinary statute passed by the legislature. The hope, on the part of the Hawaiian resistance, is that the sweep of public opinion and the dramatic majorities in the legislature may concentrate the minds of the judges and induce them, in a sudden rush of prudence, to back away. But the judges know that if they hold firm, they can be overridden only through a constitutional amendment. And the odds in that case are tipped in their favor, for already the word is getting around: the passage of a constitutional amendment may invite the kinds of boycotts visited on the state of Colorado. Businessmen are skittish over the prospect of hostile forays by Barbra Streisand and company. And at the end of the day a challenge in the federal courts could overturn the amendment.

But if the state of Hawaii establishes the legality of marriage for homosexuals, the question enters a new phase. For the judgment in Hawaii would then connect with the "Full Faith and Credit" clause of the Constitution (Article IV, section 1). That is the clause that indicates that a driver's license secured in Massachusetts will be honored in Illinois; or that the marriage legally performed in Tennessee will be accepted in Minnesota.

A question would quickly arise as to whether other states would be obliged to honor the gay marriage sanctioned by the laws of Hawaii. The presumption would tilt to the side of honoring the marriage; yet there have been exceptions. Judges might bite their lips and honor the marriage of a 15-year-old from Kentucky, but when it came to the matter of incestuous marriages, the states would draw the line. With issues of that kind, the states can argue that they are dealing with deep moral understandings about the ingredients of a "legitimate" marriage.

But for states to hold back in this way, it must continue to be legitimate for a state to incorporate in its laws the understanding that homosexuality is not on the same moral plane as normal sexuality, with an equal claim to be respected and promoted. That is the position the U.S. Supreme Court sustained in 1986, in *Bowers v. Hardwick*. The Court declined to strike down the statute on sodomy in Georgia. Strictly speaking, the Court did not declare the wrongness of homosexuality; it merely refused to find, in the practice of homosexuality, a fundamental "right" that was protected by the Constitution. That question was left to the moral judgments formed by the people in the separate states. About half the states had repealed their laws on sodomy, and yet even at this date, 24 states have refused to dismantle their traditional policy.

But there have been signs that there are no longer five votes on the Supreme Court to preserve the ruling in *Bowers v. Hardwick*. Judges in the lower courts seem to sense that the Supreme Court is on the verge of overruling *Bowers*, if they can only send up a case on appeal that provides an excuse for revisiting that earlier judgment.

And so some lower-court judges have been drawn into a new course of aggressiveness. If they succeed in giving Providence a helping hand, the result would extend far beyond merely striking down laws on sodomy. Viewed narrowly, the overturning of *Bowers* would mean only that the states may not make private homosexual acts into criminal wrongs. But any such decision is likely to be understood far more broadly. It is likely to bring forth a new conviction that there is something deeply unreasonable in the state of mind that would regard homosexuality as a style of life that deserves anything less than the full respect of the law. The decision would spark a whole new round of litigation to challenge every lingering provision in which the law withholds its approval from homosexuality. Some judges seem to be at the threshold of making this move, and if it were combined with a decision like the one now coming from Hawaii, it would bring about a revolution in our laws, with vast rippling effects.

For one thing, that simple step would remove, in a stroke, the moral ground on which a state may still refuse to honor a homosexual marriage performed in other states. In that event, the judges of one state could, in effect, "nationalize" homosexual marriage. Gay couples would merely need to fly to Hawaii for the ceremony.

But that curious state of affairs would in turn set off further reflexes in some judges, and we should not be surprised to hear arguments of this kind: Under the current laws, only gay couples rich enough to afford a trip to Hawaii may have access to the "right" of homosexual marriage. By holding then to the traditional law, a state like Louisiana would be denying to poor gay couples the Equal

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Protection of the Laws. And so resourceful judges, using arguments no more extravagant than ones they have used in the past, could strike down the remaining statutes in all of the other states that refuse to recognize gay marriage.

Still, the story would not stop there, for the implications radiating outward from these initial principles cannot readily be contained. The traditional understanding of marriage is grounded in the "natural teleology of the body"—in the inescapable fact that only a man and a woman, and only two people, not three, can generate a child. Once marriage is detached from that natural teleology of the body, what ground of principle would thereafter confine marriage to two people rather than some larger grouping? That is, on what ground of principle would the law reject the claim of a gay couple that their love is not confined to a coupling of two, but that they are woven into a larger ensemble with yet another person or two? And if the law finds no principled ground for rejecting plural spouses, how could that arrangement be confined to people of the same sex? Why would it not have to be available, in principle, to clusters of mixed sexes? In short, the move to homosexual marriage would also seem to remove, in its sweep, the principles that bar polygamy.

I am not predicting that there will be a rush to polygamy or polyandry if the law permits homosexual marriage. I am posing, instead, this question: If we acquiesce in these changes, if we admit the steps in this legal chain, what is the ground of principle on which we could tenably resist any of the further steps? Events may be unfolding here in part according to a design of litigation. Gay activists have taken their model from the strategy of litigation in the civil rights movement, which moved step by incremental step. But even the gay activists are not fully in control of this engine of litigation, and even they may not quite see the fuller reach of the changes they are triggering.

Two State Legislatures Take on the Courts

When the Hawaii Supreme Court appeared to be on the verge of upending the state's marriage laws to permit same-sex marriage, the Hawaiian legislature protested this usurpation of its lawmaking powers by enacting Act No. 217, reiterating in state law that legal marriage could only be between two persons, one male and one female. The opening section of the act firmly rebukes the state Supreme Court for practicing judicial imperialism:

"Any change in these [marriage] laws must come from either the legislature or a constitutional convention, not the judiciary. The Hawaiian Supreme Court's recent plurality opinion in *Baehr v. Lewin* effaces the recognized tradition of marriage in this State and, in so doing, impermissibly negates the constitutionally mandated role of the legislature as a co-equal, coordinate branch of government.

"...the question before the court in *Baehr* was and is essentially one of policy, thereby rendering it inappropriate for judicial response. Policy determinations of this nature are clearly ... more properly left to the legislature.... Contrary to the plurality's assertion that it was not engaging in judicial legislation, the court's intervention in this matter encroaches on the functions of the legislature in its lawmaking function, thereby impinging on the separation of powers of the respective branches of the government....

"The Hawaii state legislature, as the elected representatives of the people of the State of Hawaii, is, along with the executive branch, the appropriate source of major policy initiatives.

"...The legislature finds that Hawaii's marriage licensing statutes, both as originally enacted and at present, are intended to apply only to male-female couples, not same-sex couples. The Court in *Baehr* has effectively usurped the role of the Hawaii state legislature on this issue by substituting its own policy judgment for that of the people of Hawaii. The legislature stresses that since the determination of the nature of the marital relationship, together with its rights and benefits falls more appropriately within the province of the legislature as one of policy, this issue is more properly dealt with in the legislative rather than judicial forum. Under the principle of separation of powers, the Court therefore should have deferred to the legislature in its determination and interpretation of the marriage contract."

Lynn D. Wardle, a Brigham Young University Law School professor who was following this debate in Hawaii, noticed while teaching his family law class that Utah's marriage statute recognized as valid in Utah any marriage that was valid in the jurisdiction where it was solemnized. At his urging, State Rep. Norm Nielsen proposed a bill to amend Utah's laws so that out-of-state marriages that were incestuous, polygamous, or same-sex would not be recognized. Fearing that if the bill were held till the next legislative session the Hawaiian Supreme Court would already have "legislated" legal same-sex marriage for Hawaiians and tourists alike, Utah's state legislature overwhelmingly approved Nielsen's bill in the closing minutes of their 1995 session.

Efforts to forestall same-sex marriage are also underway in other Western states, including Alaska and South Dakota. But as Hadley Arkes points out in the adjoining article, all of these state laws would be overridden in a single stroke if the Supreme Court simply decided to revise its decision in *Bowers v. Hardwick*, a move that might now command a majority on the Court. In that event, it would become illegitimate for a state to incorporate, in its laws, any premise that implies an adverse judgment on homosexuality.

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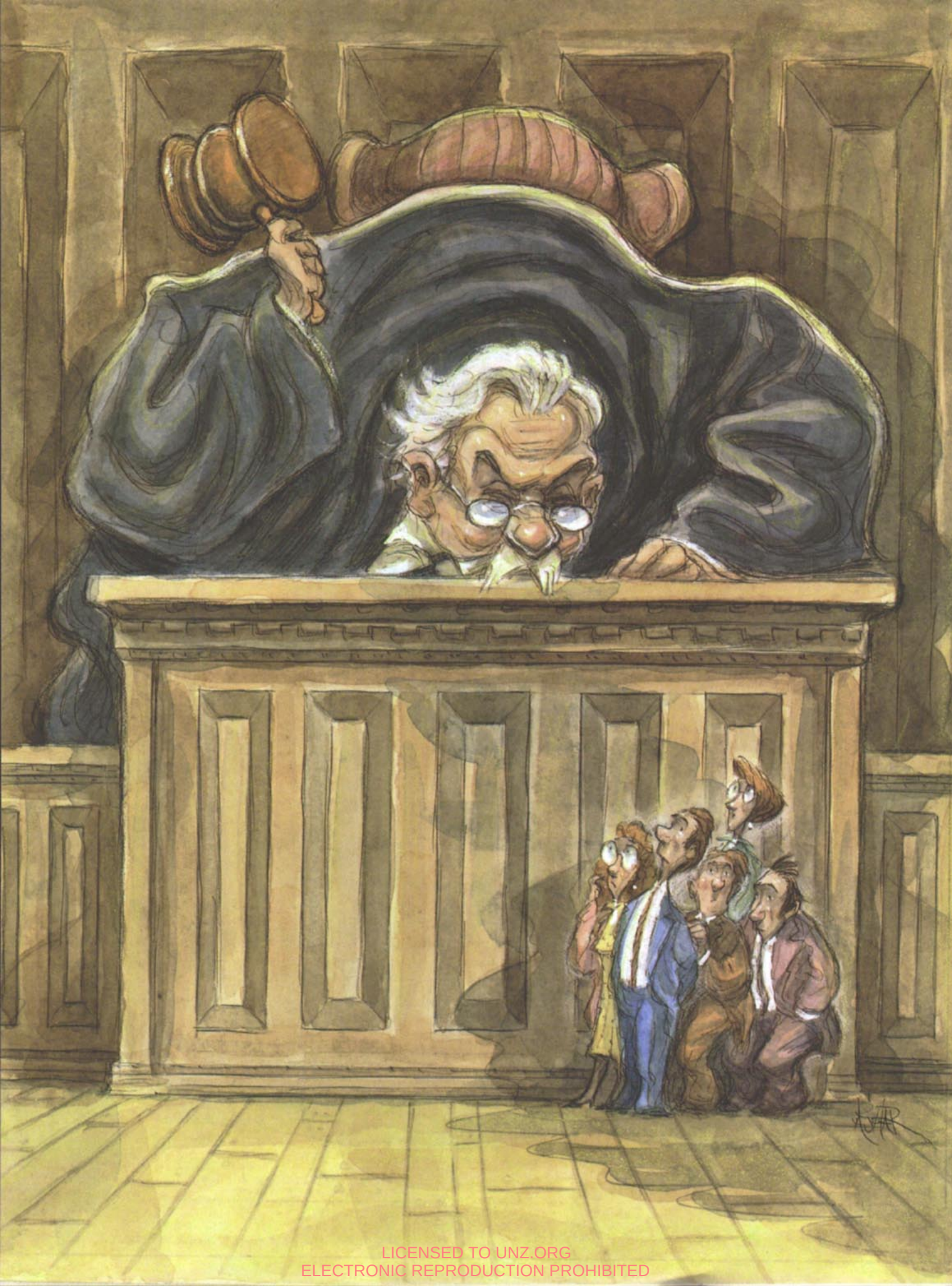

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JUDICIAL ACTIVISM

Curbing Our Imperial Courts

by Roger Clegg

WHO RUNS THE PUBLIC SCHOOLS IN KANSAS CITY, MISSOURI? NOT THE SCHOOL BOARD, OF COURSE, BUT JUDGE RUSSELL CLARK. YOU CAN READ ABOUT HIM, STARTING ON PAGE 52. • WHO WRITES THE MARRIAGE LAWS FOR HAWAII? NOT THE MARRIAGE BUREAU, OF COURSE, OR EVEN THE STATE LEGISLATURE, BUT JUSTICE STEVEN H. LEVINSON. YOU CAN READ ABOUT HIS HANDIWORK TOO, STARTING ON PAGE 57....

And who sets welfare policy for illegal immigrants in California, determines who can march in the Boston St. Patrick's Day parade, writes gay-rights ordinances for every Colorado city and town, decides what initiatives can appear on the ballot in Florida, and tells the antitrust division of the U.S. Department of Justice when and how to settle a case against Bill Gates? Not the California legislature, or Boston city council, or any elected representative in Colorado, or the people of Florida, or the head of the antitrust division.

No, if you've been reading the papers lately you know that the answer to each question is the same—judges set these policies. They are able to do so because they have usurped the decision-making authority of other government officials, often by manufacturing new constitutional "rights" that have no basis in actual constitutional language or history.

This is called judicial activism, and it is a bad thing.

Judicial activism is bad for both practical and philosophical reasons. The first practical objection is that it inevitably thrusts judges into policymaking roles for which they have no competence. Are judges as qualified as school boards to run local schools, or state legislators to write marriage laws, or antitrust officials to bring and settle antitrust cases? Of course not.

Secondly, when judges take on a function, they remove it from the political process. That's fine if it's a judicial matter—conducting a criminal trial, for instance—but an activity like funding and running schools ought to be subject to political give and take, compromise, and coalition-building. There is no one "right" way to run schools; the community and their chosen representatives should decide questions that arise. This is a place for the politics of self-government, but judicial activism shoves it aside. Of course, this is why many interest groups encourage judicial activism. It is easier to persuade a judge or two than the whole electorate. And so, as Tocqueville correctly observed, political problems in America inevitably end up before a judge.

To see the costs of constitutionalizing an issue and removing it from the normal political process, perhaps the best example in this century is the Supreme Court's 1973 abortion decision *Roe v. Wade*. By manufacturing a constitutional right to abortion, the Court both nationalized the abortion debate and made political compromise impossible. It has been a divisive issue ever since.

Illustration by Brian Ajhar

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Judicial activism is also bad for more fundamental philosophical reasons. Simply put, it breaks the original Contract with America, namely the Constitution itself. The Founders believed that the federal government, and especially the federal courts, should play a relatively small role in our republic. The judiciary was to be the "least dangerous" branch, as Hamilton called it in *The Federalist*, doing no more than reading and applying the constitutional and legal texts that others wrote.

It is undemocratic when judges overturn laws passed by electoral majorities. When these judges lack a constitutional basis for doing so, they act illegitimately as well. The Constitution is the fundamental statement of We the People's political intentions—the "supreme Law of the Land," as it says in Article VI. No judge, legislator, or bureaucrat can legitimately break this law by substituting his wishes for it. On the other hand, when a legislature passes a legitimately constitutional law, no judge may break that law by overturning it and substituting his wishes for the people's. And any judge inclined to such arrogance should realize that an electorate thwarted in its efforts to carry out its will through laws will eventually turn to more dangerous means of expressing its will.

When judges refuse to do their job of applying the law, they also make it easier for the other branches to refuse to do their jobs. If Congress knows that the judiciary will exercise its own policy judgment, Congress knows it can duck making tough calls. An example: former Massachusetts Sen. Paul Tsongas sponsored the Equal Rights Amendment to the Constitution, but when challenged about what its abstract provisions would mean in practice, he claimed he didn't know and we should let the courts decide.

In the late twentieth century, apologists for judicial activism are generally found on the Left. But the practical and philosophical objections to activism ought to be recognized by both sides of the aisle, and the origins of activism ought to drive this point home.

Judicial activism has a long and sad history in our country. Exhibit A is the Supreme Court's 1857 *Dred Scott* decision, which struck down a congressional statute—the Missouri Compromise—on the grounds that by prohibiting slavery in federal territories it violated the Due Process Clause of the Fifth Amendment. The Court also proclaimed that blacks were so inferior that they could not be U.S. citizens. And by inventing an absolute right for a slaveholder to do whatever he chose with his "property," the judicial activism of *Dred Scott* threatened to spread slavery to the free states and so hastened the Civil War. Overturning this judicial attempt to "solve" a political problem required the bloodiest conflict in American history, as well as three constitutional amendments. One would have thought this epic failure might have chastened the judiciary, but it didn't.

Instead, the Supreme Court seized on a Reconstruction-era constitutional amendment to begin a new round of activism. It used "substantive due process" (the very doctrine that Chief Justice Taney had created in *Dred Scott*) to begin striking down state economic regulations (child labor laws and the like). This practice continued until the New Deal era.

The Warren Court of the 1960s began the next great era of activism. The Court meddled in all sorts of state and local laws that aimed to reduce public nuisances like vagrancy and panhandling. It opened vast loopholes that allowed redhanded criminals to get off on technicalities. The minting of new, previously unheard-of rights has continued to the present day, when judges contemplate imposing same-sex marriages on Hawaiians and interior-decorating choices on Missouri school officials.

Since earlier activism was distinctly unprogressive, it is shortsighted for the Left to defend the activism of our era. Nonetheless, the Left does. And when the term "judicial activism" is misused, most frequently and willfully it is by proponents on the Left.

There are three common mistakes. Sometimes "activist" is used as a synonym for "energetic." One pictures the activist judge bouncing out of bed and into his chambers early in the morning, fortified by a brisk jog and bowl of granola, and going unshirkingly about the business of judging. The apostle of restraint, on the other hand, comes in late and goes home early, after a long lunch hour, letting the cases pile up on his desk. This is silly, of course, but you'd be surprised how many news articles point to the diminishing caseload of the Supreme Court as proof that it has rejected an activist role.

Slightly more sophisticated is the claim that an activist court is one that overrules its own precedents. If today's Rehnquist Court calls into question, let alone overturns, a hallowed Warren Court precedent, the liberal pundits exclaim, "Ah ha! This is not a conservative court at all. These hypocrites are themselves activist!" As if returning the laws to constitutional shape is the same as stretching them at whim.

Finally, "activist" is also applied to any decision that asserts judicial power against the political branches. Once again, pundits use this definition to "prove" the hypocrisy of a conservative court. If a statute is struck down as an unconstitutional taking of private property, well that is surely "activism"—even if the statute is flatly inconsistent with the Constitution.

All of these are misuses of the term. What judicial activism truly describes is a judge who misapprehends the role of the judiciary—by asserting his view of what the law should be, instead of determining what in fact the law is. A court that works hard and decides a lot of cases, but renders its decisions based on what the Constitution and statutes actually say, in short, is not activist. A lazy court that, when it does speak, does so arbitrarily is still activist.

Similarly, if a court is confronted with a precedent it determines is not based on a sound interpretation of legal language, it is hardly being "activist" when it overturns that decision. Conversely, rigid adherence to established activist precedents is simply consistent activism.

There is nothing activist about a court declaring the actions of the legislature or executive unconstitutional—so long as those actions are in fact inconsistent with the Constitution, and not simply contrary

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to the judges' own predilections. Indeed, it is a form of activism to ignore real constitutional guarantees, as has frequently occurred in this century with property rights, for example.

Given its discredited history and general unpopularity, what accounts for the persistence of judicial activism? The answer is simple: like most evils, it is rooted in human nature. Two instincts in particular account for judicial activism: the very human desires to right wrongs and to boss people around. The first is more defensible than the second, but working together the two often lead to a bad end.

People commonly go into politics or law because they (a) have strong views about how the world ought to be ordered, and (b) want to do something about it. And it is from the ranks of politically involved lawyers that we draw our judges. In Hollywood, everyone wants to direct, and there is a strong temptation for judges to use the bench as a director's chair too.

This tendency is aggravated by the social circles in which judges generally find themselves. When they speak at law schools, when they participate at conferences, when they hire their bright young law clerks, when they talk with the press, when they go to the annual American Bar Association convention, when they attend the receptions thrown by their spouses' favorite causes—there are few social rewards for resisting the temptation to hurry along "progressive" political interests through judicial activism. Opposing activism will prompt raised eyebrows at fashionable social events, while indulging in it will earn a warm pat on the back.

Because there are both internal and external pressures to be activist, it is easy for a judge to rationalize a wrong decision. Heaven knows there are now plenty of bad precedents out there for the weak lower-court judge to follow. And focusing on the law is more difficult than giving in to your feelings. Judicial restraint requires qualities that are the polar opposites of "righting wrongs" and "bossing people around." Unsurprisingly, these qualities come hard to most people.

For starters, restraint requires a recognition that ends do not justify the means. It is not easy to say to someone for whom you feel sympathy, "Sorry, but my job is not to help you, even though I could." That requires discipline and detachment. Restraint also calls for a mature acceptance of the fact that no one person and no one institution can know all the answers, for what would that be but dictatorship under another name?

If activism is here and if human nature makes it likely to stay, what can be done about it? There is no simple solution. As we've seen, this is a deep-seated tendency that has been with us a long time. But certain steps can be taken.

The first is to make sure that a problem is really with the judge and not with the legislature. The ugly truth is that sometimes judges interpret laws in crazy ways because that's how they're written. With so many laws being passed these days, with the laws written being so long, and with regulatory bureaucracies piling dozens, even hundreds, of regulations on top of each statute, mistakes are made. Sometimes politicians and bureaucrats cater to special interests, hoping that the public at large won't notice. Or, in an attempt to please everyone, lawmakers write laws in a deliberately vague way.

If a law or regulation is defectively written, don't blame the judge—blame the legislature or the bureaucracy and demand action there.

Often, solutions to activism will lie in the political branches, even when the problem is with the judiciary. If a judge decides to extend a narrowly intended law into a new area, he can be thwarted if that law is then clarified by amending it. The new ordinance prohibiting discrimination against the disabled wasn't intended to cover the city's ballet? Just say so.

A recent variation on this theme involves the so-called exclusionary rule. This judge-made doctrine excludes evidence from a criminal trial that is later determined to have been seized in violation of the Fourth Amendment's restrictions on searches and seizures. Bills overturning this rule are now working their way through Congress.

When, as often happens, a legislative or administrative response is difficult or impossible, there is still hope. Many state judges are either elected or are subject to recall votes. Even impeachment may be possible. And just as judges are susceptible to personal, political, and social pressures to be activists, they can be subjected to the same pressures to refrain from activism.

Still, there's no doubt that to some extent judges can ignore public opinion. They're supposed to, after all. Ultimately, the only way to avoid having activist judges appointed is to make it politically costly for presidents (or governors) to appoint them, and politically attractive not to. This is the legitimate area of inquiry at a judicial candidate's hearings, and voters should demand that it be explored. After the fact, presidents and their parties should be held accountable for the activism of their appointees. Who appointed Judge Clark anyhow?

There is a larger lesson to be learned from the sorry history of judicial activism. The real question is, who decides? And how do we decide who decides?

The Constitution wisely gave only limited powers to the federal government. Today, it is not just federal judges who have seized more power than the Framers gave them, but Congress and the executive branch. Those branches have been "activist" too.

Asking the federal government to act may be an easy way of getting the statute, or entitlement, or pork that we want. It may be much simpler, individually and collectively, than dealing with a given problem at the state or local level, or within one's own business or one's own family. Taking responsibility is hard, and so is rejecting government help when it's offered to you. But in the long run we pay dearly in lost liberty when we cut corners. We must accept the fact that the proper means may not always be the easiest way to the ends we would like.

There is nothing wrong with demanding that judges do only their jobs. But we must also demand that other federal officials do only theirs—and we must be willing to do ours too.

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Home Again: Aleksandr Solzhenitsyn's First Year Back in Russia

Edward E. Ericson, Jr.

The first thing to note about Aleksandr Solzhenitsyn returning to Russia at the age of 75 is the wellnigh miraculous fact that he lived to get the chance. More than 40 years ago, he almost died of cancer. He spent eight years in the Gulag camps that claimed at least 60 million lives, lives we know of through him. The KGB plotted to kill him and once almost succeeded with poison. By any measure, his is one of the truly dramatic lives of our century, a classic illustration that the pen in one hand is mightier than the sword in many.

Born in 1918, Solzhenitsyn had decided by his teen-age years what he had been born to do: he would be a writer in the great Russian literary tradition. His subject would be the greatest event in modern world history, the Bolshevik Revolution. For he thought that the Soviet experiment was the defining experience of the twentieth century. His viewpoint would be undergirded by what he had learned in school: Marxism-Leninism.

Came World War II, and Solzhenitsyn entered the Red Army. As the war effort stumbled, he wrote a friend a letter criticizing Stalin's strategic blunders. Bad move. Military censors opened the letter. For this criticism, offered in private and less severe than what we daily read in public print about our nation's commander-in-chief, he was sent to prison. There he learned horrible things that as a schoolboy he could not have imagined, any more than we could have imagined them until he told us. There his commitment to the so-called progressive forces of history was quickly undermined by talks with the worst enemies of the state—religious believers. And so, gradually, he returned to that faith into which his family had had him baptized as an infant.

Once out of prison, he wrote and wrote. What stories this first-hand witness now had to tell. They were pieces of the greatest horror story, at least in quantitative terms, in world history. In addition to his novels, stories, and plays, he wrote a non-fiction history of those prison camps to which he gave the name *Gulag*. Thus did one man contribute to our dictionaries one word to stand, along with *Holocaust,* as a shorthand term for modern man's inhumanity to man.

In 1974, when the KGB tracked down a copy of *The Gulag Archipelago,* Solzhenitsyn was sent into exile, a state he says is worse than death for a Russian writer. He settled in the United States. The press—and here I mean what Harold Rosenberg has called the herd of independent minds—will tell you that Solzhenitsyn is anti-Western. Solzhenitsyn will tell you that the United States is the most generous and most magnanimous country in the world. When he departed from his 18-year-temporary home in Cavendish, Vermont, he thanked the locals for their lessons in grass-roots democracy and declared that those years had been the happiest and most richly creative of his life.

In Vermont, he wrote the series of novels he had projected in his youth. They are longer by far than Tolstoy's *War and Peace.* He devoted the prime of his life to telling future generations of Russians the truth of their history, after a concerted official effort to replace truth with falsehood. Initial judgments of this mammoth project, called *The Red Wheel,* are not favorable, but these judgments have been cast before the work has been seen as a whole. A generation from now, after some critical siftings, today's students may know whether he parceled out his life's energies wisely.

Solzhenitsyn's life has been not only dramatic but also influential. In a major article last year in *The New Yorker,* David

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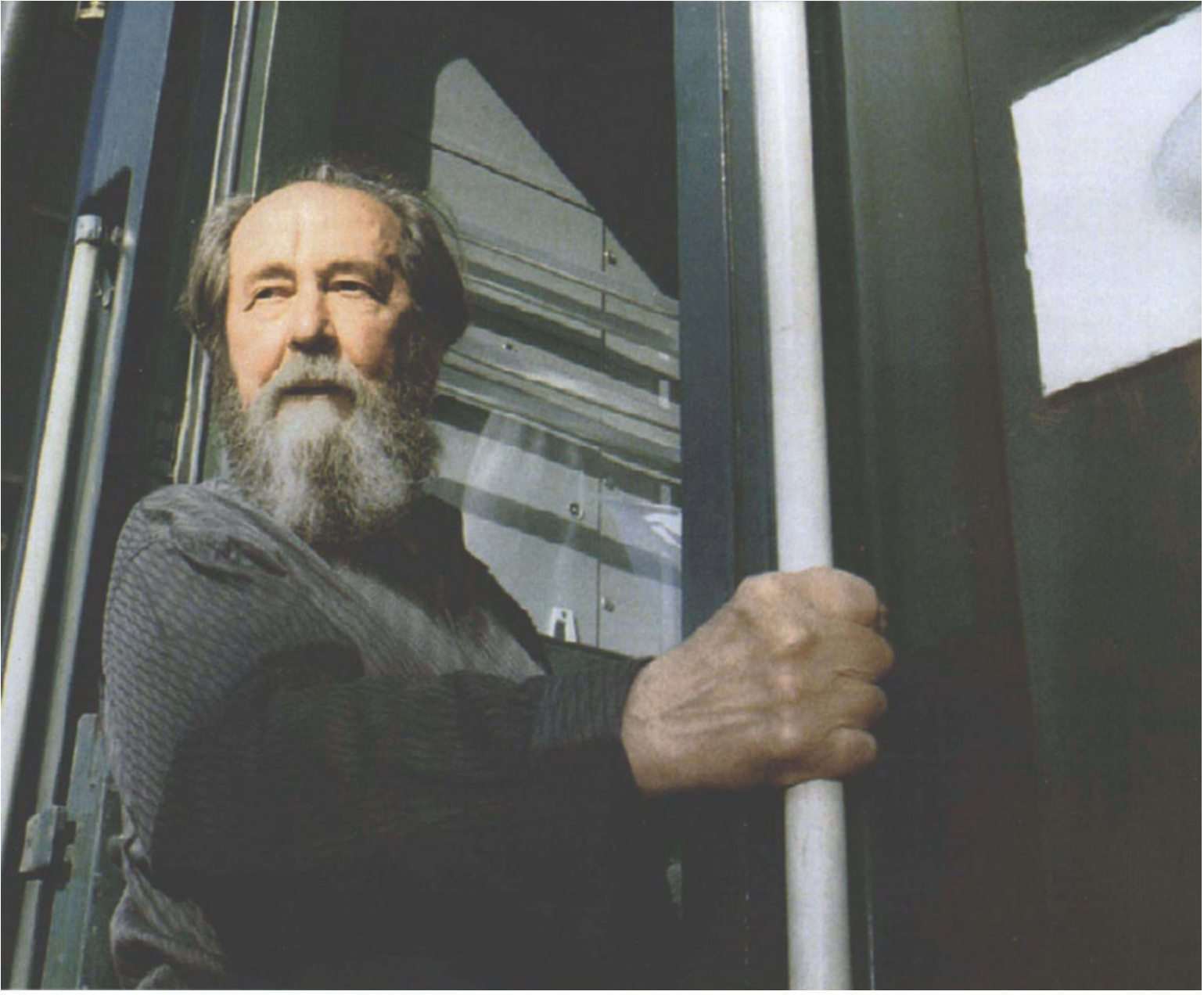

BETTMAN.

Remnick wrote, "In terms of the effect he has had on history, Solzhenitsyn is the dominant writer of this century. Who else compares? Orwell? Koestler?" Later, on a television show, Remnick expanded on his point:

> When I say that Solzhenitsyn is the dominant writer of the twentieth century, I don't mean the best literary writer …but, as someone who was able to combine truth-telling with the literary project, he is unparalleled. … No writer that I can think of in history, really, was able to do so much through courage and literary skill to change the society they came from. And, to some extent, you have to credit the literary works of Aleksandr Solzhenitsyn with helping to bring down the last empire on Earth.

"And yet," Remnick notes, "when Solzhenitsyn's name comes up now it is more often than not as a freak, a monarchist, an anti-Semite, a crank, a has-been, not as a hero."

About his Western critics Solzhenitsyn himself has said, "They lie about me as if I were already dead." His chief complaint: "Nobody ever gives any quotes."

We have just lived through one of history's great watershed moments. As a teacher of old books, I used to wonder what it would be like to live through one of those dates that schoolchildren forever after must memorize. Now I know: nobody notices. Or at least not very much and not for long. Yet I believe the future will see the failed utopian experiment of Soviet Communism to be the defining experience of this century.

An old Soviet-era joke went like this. A century from now, a history teacher asks a schoolgirl, "Who was Leonid Brezhnev?" The girl answers, "Wasn't he some insignificant politician in the age of Solzhenitsyn?" A British newspaper recently retold the joke and added, "Nobody laughs any more. It sounds like a simple, dry statement of fact."

Solzhenitsyn, of course, has been wrong about some things. Not as many dominoes fell to Communism as he anticipated. Portugal did not join the Warsaw Pact. And as he lamented the weakness of the West in promoting liberty, he underestimated the reserves of strength and sacrifice among that populace that he was pleading. Here, ironically, his miscalculation resulted from taking the views of

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those he was castigating—members of the West's intellectual and political elites—to be more representative than they were. Finally, in his passion for plainspoken truth-telling, Solzhenitsyn sometimes let his tone become too strident to persuade the resistant.

That said, what is truly remarkable is not that Solzhenitsyn has sometimes been wrong but that he has so often been right. Consider this. Two decades ago, when the Soviets shipped him out, one of the first things he said was that someday he would return to Russia. This prediction he repeated many times. For example, he told interviewer Malcolm Muggeridge, "In a strange way, I not only hope, I am inwardly convinced that I shall go back.... I mean my physical return, not just my books. And that contradicts all rationality." Now the prophecy has been fulfilled, and a friend of his reminisces, "It seemed crazy to me at the time, but it was a real conviction, a poet's knowledge. He *sees*. The man *sees*."

Solzhenitsyn understood that, in order for him to return home, the whole Soviet system would have to change. The collapse of the Soviet Union itself he also foresaw. He now observes, matter-of-factly,

> Not only did Gorbachev not want to hear about this, President Bush and other Western leaders also said the Soviet Union must remain intact. To me, it had been clear for many years.

Well more than a year before the hammer-and-sickle was lowered from the Kremlin flagpole for the last time on Christmas Day 1991, Solzhenitsyn declared, "Time has finally run out for Communism." Who else was saying so as recently as that, even after the fall of the Berlin Wall?

You can find experts who say today that the Soviet Union was obviously doomed to fail, but if you consult their past writings for any such glimmerings, you will search in vain. The failure of Western Sovietology is the most colossal academic scandal of our time, a scandal made worse by the subsequent self-justifying rationalizations of those indicted by the events of history.

The single most important word in Solzhenitsyn's message is *repentance*. Imagine the national catharsis if the erstwhile executioners were to step forward and say "Yes, I did it," and then give proof of their repentance.

If current explanations of the demise of Soviet Communism are jumbled, that is not really surprising, since much of the current analysis emanates from persons whose prior studies proved utterly wrong. Amidst this jumble, the fact that Solzhenitsyn not only predicted the Soviet collapse but through his writing helped bring it about is sometimes acknowledged. It is odd, though, how the witness is treated. Scholars mention him briefly then move on to other themes that interest them more. One senses that, though there is now no denying Solzhenitsyn's influence, neither is there any cherishing of it. Despite widespread appreciation of him among the populace, something about Solzhenitsyn sticks in the craw of most intellectuals. This is, incidentally, as true in Russia today as it has long been in America.

The reason Solzhenitsyn could be correct about his own fate and that of his beloved country was because he understood the true nature of Communism. He could understand this because he understood the nature of human reality. Solzhenitsyn's moral vision is couched in his Christian faith. He knows how the line dividing good and evil runs through every human heart, how actions have consequences in the moral universe, and how human dignity has its source in a transcendent order beyond our material world.

As Solzhenitsyn contemplated returning home, 9 out of every 10 letters that he had received from Russians told him to stay away, whether from despair over conditions or from fear for his life. But as his oldest son, Yermolai, said, "If fear was something that ever stopped my father, he would never have done most of what he did." Solzhenitsyn explained to a quizzical interviewer, "I could have stayed [in Vermont] peacefully and in great happiness. But it would have been running away from my duty not to have come back." Rather than imagining Solzhenitsyn as a golden-ager in Florida, playing shuffleboard, we may prefer David Remnick's picture: "Solzhenitsyn will die in Russia, not a pariah but a free man. Is it too much of an embarrassment in the age of irony to think that his homecoming is somehow Biblical?"

The message he carried back with him included suggestions on politics and economics. You can read them in his little book *Rebuilding Russia*, in which the prophet turns practical adviser of state. The new Russia, he argued, must find its way to democracy, but built from the grass-roots up and installed gradually. In economics, there must be private ownership of land and free enterprise, but not a takeover either by multinational corporations or by the unholy alliance of old Communist apparatchiks and new Mafiosi. The disastrous ecological damage must be reversed. The future must see a sound blending of the best of Russian tradition and the best of Western practice.

But no list of practical proposals, however long, will suffice for a Russia trying to dig its way out from under the rubble of the Soviet tragedy. For practical considerations do not reach to the root problem, which is, in Solzhenitsyn's words, that "men have forgotten God." What is most needed is a movement of moral and spiritual renewal. That there is in fact a major revival of religion in Russia is one of the great but under-reported stories of our historical moment, and it also predisposes many to listen to Solzhenitsyn.

The single most important word in Solzhenitsyn's message is *repentance*. It's a longstanding theme of his. His

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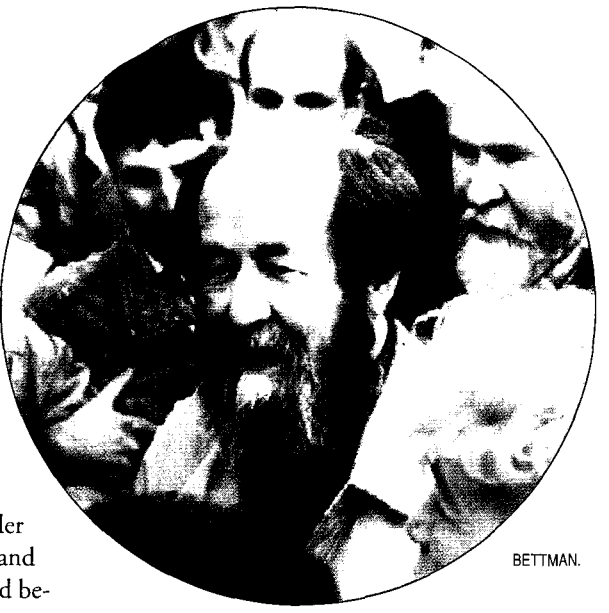
final words when he was banished were, "Live not by lies." Now, upon his return, his first words are, as it were, "Repent for having lived by lies." Imagine the national catharsis if the erstwhile oppressors and executioners were to step forward, in something on the order of a Nuremburg trial, and say, each in turn, "Yes, I did it," and then give charity as proof of their repentance. Instead, as Solzhenitsyn says, "the whole Communist elite has had time to simply change masks—some became 'democrats,' some became businessmen—but they have successfully held on to all the commanding positions."

Only after repentance will Russians be ready for Solzhenitsyn's second word: *responsibility.* In a nation where for three generations people were trained to view themselves as dependent wards of the omnipotent state, this word is both novel and hard. It turns out that three generations are enough to sever a nation's living tradition, especially when the best human capital was systematically liquidated. Yet Solzhenitsyn knows that there can be no healthy civic order until independent, self-reliant citizens take responsibility for their lives. Until then, Russia will continue to crawl out from under the rubble in the worst possible way, and it may take a century or two to succeed.

As he left for home, Solzhenitsyn said good-bye to the West in a speech in France that drew a crowd of 30,000. Few Americans know about that. Solzhenitsyn had an hour-and-a-half audience with Pope John Paul II. They discussed the need for a return of faith after decades of forced atheism. Some would say that two of the greatest men alive were in that meeting, but too much of real importance happened that day for our newscasts to squeeze in a sentence about it.

As Solzhenitsyn headed home, everyone just knew that he would come in through Moscow's Sheremetevo airport, as do all important travelers to Russia. Everyone but Solzhenitsyn. He flew across the Pacific, entering through the back door, so to speak. Even a hostile critic, who did not like being fooled this way, conceded, "There is hardly a script writer in the world who could invent such a scenario."

The plane first landed in Magadan, a Siberian capital in the district with the harshest prison camps, called Kolyma, and thus symbolically the capital of the whole Gulag Archipelago. There, in solidarity, Solzhenitsyn proclaimed, "I bow to the earth of Kolyma where many hundreds of thousands of our executed fellow-countrymen are buried. Under ancient Christian tradition, the land where innocent victims are buried becomes holy ground."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Then the plane was off to Vladivostok, Russia's main Pacific port of entry. To the 4,000 citizens who had been standing in the rain for hours, eager to give Solzhenitsyn a hero's welcome, he declared, "I know that I am returning to a Russia tortured, stunned, altered beyond recognition.... My heart longs for the day when our country's long-suffering people might finally see a ray of light ahead. I bow to you in respect and admiration." He added, "Everywhere I go, I hope to meet and listen to local residents, to test and revise my own judgments." This purpose caused no little consternation among the officials charged with providing pomp and ceremony. "Talk to people, talk to people. That's all he wants," complained one. While in Vladivostok, he spoke to a thousand university students to eruptions of applause. A journalist at the scene remarked, "It was hard to believe that this man had never spoken to a Russian crowd before his first evening back in Russia."

Then came a 55-day train trip westward to Moscow. Lenin, too, came to the capital by train—a sealed train. Solzhenitsyn's train kept stopping. Talk to people, talk to people. Solzhenitsyn addressed large gatherings, discussed with small groups, chatted one on one, especially seeking out his former fellow prisoners. He filled notebooks with statements from the people, which he would carry to the leaders. He did the same on a later, 27-day trip to his home territory in southern Russia. This was all quite a change from his secluded life in Vermont. His wife observed that, despite the rigors of the trip, he became even healthier. He agreed: touching his native soil gave him new energy.

The Western press covered Solzhenitsyn's return. The best that can be said for its analysis of the man is that it was less bad than it used to be. Solzhenitsyn is now widely hailed as "the most admired living Russian" by a Western press that can't quite fathom why.

More interesting than Western reactions to Solzhenitsyn's homecoming are Russian reactions. Predictably, the big-city intellectuals have been less welcoming than common citizens. On the eve of his return, a poll in St. Petersburg of presidential preferences listed Solzhenitsyn in first place at 48 percent, with Boris Yeltsin in second, at 18 percent. By contrast, here's an intellectual speaking: "Solzhenitsyn is a spiritual statue. Let him stay in mothballs forever." A mixed metaphor to savor, I'd say. Here's another comment, from a left-of-center newspaper: Solzhenitsyn wears a "Hollywood beard" and is "a walking skeleton," "a hatrack," and "a eunuch castrated by his fame." (This article elicited a barrage of letters of protest.)

Not all Russian intellectuals were naysayers. An editor of another newspaper wrote, "It's not Solzhenitsyn's fault that things in Russia have changed. Solzhenitsyn is a hero, and any insulting articles, especially at this time, are indecent." Another writer responded to the snide carping passionately: "Who needs him? I need him. I, I. We all need him, in conditions

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of freedom as much as in conditions of lack of freedom." "I will listen to Solzhenitsyn," asserted another, "because I fully agree that without rebuilding the morals in this country we will have a decaying, third-world-type country."

For responses from the general populace, space permits only a brief sampling. One Muscovite said, "When I first read Solzhenitsyn, I was on my knees. He helped me stand on my feet as a citizen." A construction worker used the very same image: "after reading *The Gulag Archipelago* I could get up off my knees." A teacher said, "The Communists always told us he was a traitor, but we never believed them." A young woman standing in the crowd of 4,000 greeting him at the Moscow train station said, "He won't be able to do much here, but you can believe in him. There's no one else to believe in."

Today Solzhenitsyn is in Moscow doing what he can for his beloved country. At last report he had given more than 30 speeches to large crowds. He meets behind the scenes with various politicians, rather as an elder statesman would. He has met with President Yeltsin. He has spoken to the parliament, the Duma. Our press counted it against him that he was not warmly received there, though others would little value cheers from that lot. As he told these deputies to their face, they are oppressing and humiliating the citizens by strangling democracy and imposing a corrupt oligarchy instead. Dostoevsky's devils are alive and well in Moscow.

Perhaps most interestingly, Solzhenitsyn has his own regular show on national television. Of national politics he talks little; he does put some hope in the next local elections. He urges the preservation of Russian history and the recovery of neglected modern authors—Bulgakov, Zamyatin, Akhmatova—and Western writers, too. So far, this former schoolteacher has talked about schools more than anything else. Amazingly, Moscow still distributes a textbook entitled, *The History of the USSR Since 900*, though some historians have put together a new textbook based on Solzhenitsyn's revelations.

With teachers now virtually abandoned by the state, Solzhenitsyn frets about the children. He laments the drastic decline in academic standards, resources, and school discipline. He worries about the unformed young who go home to imbibe what he calls the "liquid manure" of Western pop culture from television.

Whether over the flickering tube or in meetings small and large, Solzhenitsyn presses his moderate position. He castigates Vladimir Zhirinovsky, who has demonstrated enough voter appeal to be unnerving, as "an evil caricature of a Russian patriot," thereby serving as a counter-weight against the rise of fascism. He undercuts those who would preserve the old empire, by proposing the absorption back into Russia of as many of the 25 million-strong diaspora as wish to come in from the Near Abroad. In February he brought his case for decentralization to a conference on local government, exerting his influence to break the hammer-lock of central control so familiar after all those Soviet years. In sharp contrast to the tepid response of the Duma, these local officials freely interupted his speech with bursts of wild applause, and afterward swarmed about him seeking his counsel. As one ambivalent Muscovite observed, Solzhenitsyn "is becoming the *charge d'affaires* of the *other* Russia, the one that exists outside the capital and the corridors of officialdom."

Solzhenitsyn has spoken about Chechnya, as well. In an interview in a widely read magazine he chastised the Yeltsin regime for not letting Chechnya go when it declared independence in 1991. Continuing the war against Chechnya sets up a major confrontation between Russia and the whole band of Muslim nations along its soft underbelly. Ethnic republics with a clear majority of natives in the population and an outside border (Chechnya being one of three such) should be allowed to go their way, if they wish; Russia has its hands full with the recuperation of Russia, he says.

Despite general inattention to Solzhenitsyn among the big-name leaders, his message is not falling entirely on deaf ears. Earlier this year, a leading newspaper carried an appeal by 11 young politicians urging him to run for the presidency in the 1996 election.

What are the prospects, we ask, that Solzhenitsyn will succeed? It's an American question. He himself says, very simply, that he doesn't know. Things are both worse and better than he had expected. On one hand, he candidly admits dismay that, once his books were finally published, the chaotic times so disrupted old reading habits that many did not get read. On the other hand, the people, though disoriented, seem less pessimistic and apathetic than he had anticipated. In Russia a total system has collapsed totally and left behind a total problem. In this situation, everything must be done at once, and everything must be done first. As a witticism has it, it's easy to make fish soup out of an aquarium, but no one has yet found a way to make an aquarium out of fish soup.

But the question of success is not really the right question. Solzhenitsyn has said, "I'm obliged to help Russia with my experience, advice, and influence, not knowing why or what result it will have." In the words of a familiar old book, it is required of stewards that they be faithful.

Recently, an interviewer asked Solzhenitsyn if he feared death. "Absolutely not," answered the old man.

> As a Christian, I believe that there is a life after death, and so I understand that this is not the end of life. The soul …lives on. Death is only a stage, some would say even a liberation. In any case, I have no fear of death.

Not long ago, a Communist functionary told a Western reporter that Solzhenitsyn's house in Vermont was guarded by dogs with razor teeth who will spare any passing Communist only if called off in Old Church Slavonic. I rather like picturing that functionary and his comrades on the run. They are history's losers. I will not be surprised if, by contrast, Russians someday name schools and streets and parks after Solzhenitsyn. He has been a faithful witness, and he's on the side of truth. He is on the side of the victors.

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Solzhenitsyn Speaks Today

"In Vermont I had wonderful conditions, better than anything Tolstoy ever had.... I could have stayed there peacefully and in great happiness. But it would have been running away from my duty not to have come back. I could not escape our people's pain.... I came because of my conscience....

"I have already written all of my books and fulfilled my literary task. It is time to start the hard work of rebuilding and reviving Russia....

"Moscow has always lived differently from the rest of Russia. Moscow views Russia in the same way that Europe views Moscow....

"I will not occupy any political post either by appointment or by elections. But I certainly want to help our homeland out of its extremely difficult situation, through public action, meetings, through my articles, through persuasion....

"Our problem is we are not cleansing ourselves spiritually. Communism has remained in our hearts, in our souls, and in our minds."

—Tass, May 27, 1994

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"In my brochure *Rebuilding Russia*, written in 1990, when the Soviet Union was still standing, I wrote that private ownership of land is essential. It is obvious why. Self-interest. A person takes an interest in his work when he has his own stake.... You cannot imagine what is going on over there right now! What is being prepared is simply a fire sale. Nothing of Russia will remain. Not even land. Nothing! There will be no farmers, only wage laborers. And crooks, who will own the land....

"Not a single one of the former oppressors and even the executioners has been brought to justice. They haven't even repented. The whole Communist elite has had time to simply change masks—some became 'democrats,' some became businessmen—but they have successfully held on to all the commanding positions, both in Moscow and in the provinces. The government structure that we have today is pseudodemocracy, since the people do not control the actions of the authorities, do not decide their own fate, and have already lost hope, in deciding it. The main problem in Russia today is the lack of initiative and stubborn self-reliance at the grassroots. Only from here, and not *from above*, can real power of the people be established."

—*Forbes*, May 9, 1994

"The government of the United States, up to Reagan's time, was extremely hostile to me. At the briefings in the State Department, it was officially stated that Solzhenitsyn is a fascist.... The Voice of America was prohibited from reading *The Gulag Archipelago* in its programs transmitted to Russia. Just imagine: Russia, which lost 60 million people, suffered a catastrophe described in my book, which was the reason for my deportation, and that book couldn't be broadcast by the Voice of America because it might spoil relations with the Soviet Union. Starting with Reagan, the official attitude toward me changed....

"Our country is collapsing into itself. I never thought the exit from Communism would be painless, but nobody would have known it would be this painful. The state again does not fulfill its obligations to its people. Our children are defenseless against the scourge of corruption. Crime threatens to strangle our country. We cannot say we have democracy here. No democracy is like this."

—*60 Minutes*, April 24, 1994

"All hope cannot be pinned on science, technology, economic growth. The victory of technological civilization has also instilled a spiritual insecurity in us. Its gifts enrich, but enslave us as well.... All is a struggle for material things; but an inner voice tells us that we have lost something pure, elevated, and fragile. We have ceased to see *the purpose*. Let us admit, even if in a whisper and only to ourselves: In this bustle of life at breakneck speed—*what* are we living for? ...

"Nothing speaks more of the current helplessness of our spirit, of our intellectual disarray, than the loss of a clear and calm attitude toward *death*. The greater his well-being, the deeper cuts the chilling fear of death into the soul of modern man. This mass fear, a fear the ancients did not know, was born of our insatiable, loud, and bustling life. Man has lost the sense of himself as a limited point in the universe, albeit one possessing free will. He began to think himself the center of his surroundings, not adapting himself to the world, but the world to himself. And then, of course, the thought of death becomes unbearable: it is the extinction of the entire universe at a stroke. Having refused to recognize the unchanging Higher Power above us, we have filled that space with personal imperatives, and suddenly life becomes a harrowing prospect indeed....

"Surely we have not experienced the trials of the twentieth century in vain. Let us hope. We have, after all, been tempered by these trials, and our hard-won firmness will in some fashion be passed on to the following generations."

—Speech in Liechtenstein, Sept. 14, 1993

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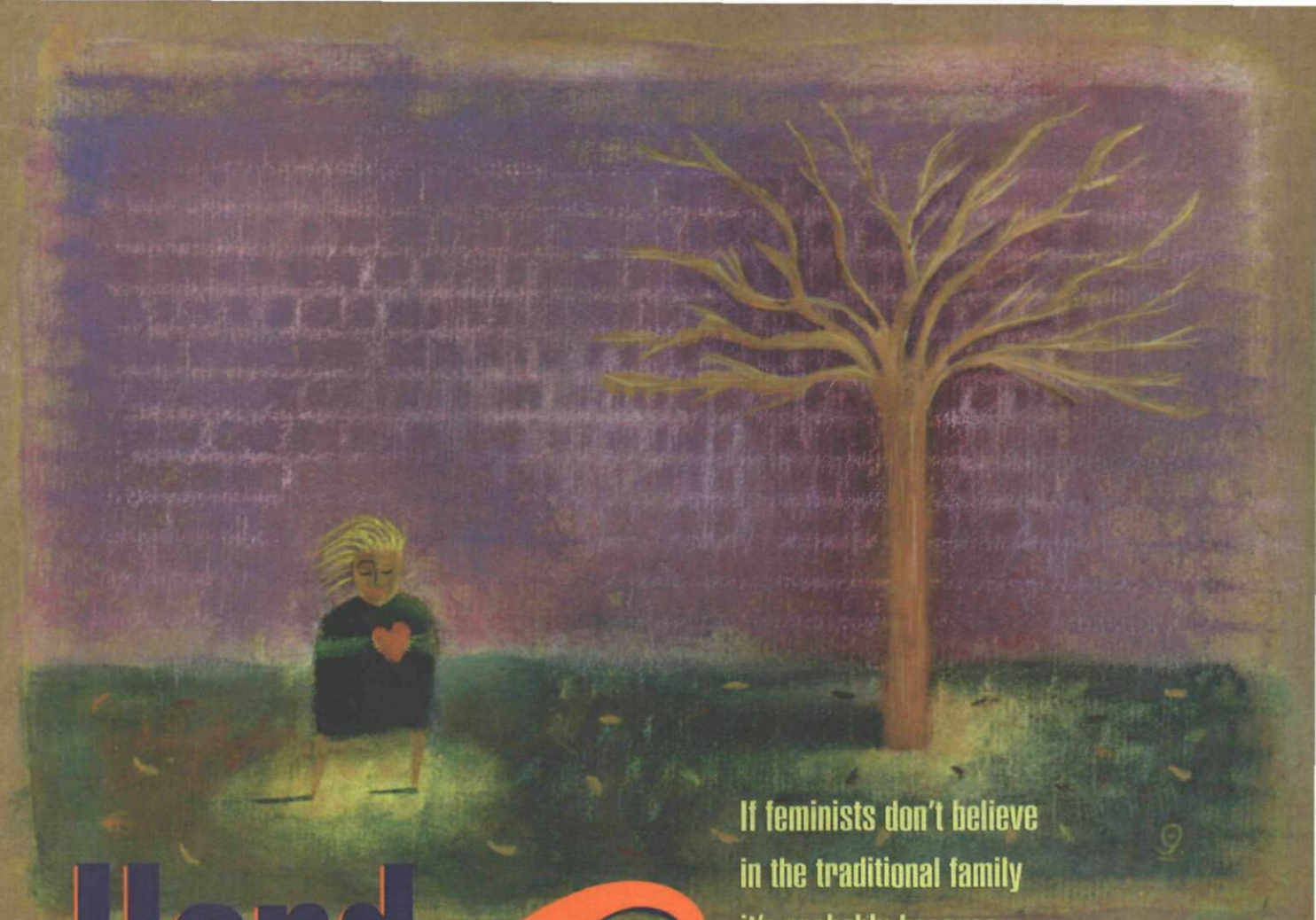

If feminists don't believe in the traditional family it's probably because they never knew it

Hard Cases

by Katherine Dalton

The personal is political. Since the '60s, that has been the feminists' call to battle. But you might never have guessed, until you started looking into their biographies, just how personal their politics are. If the *grandes dames* of the feminist movement are angry, the fact is that many of them have something to be angry about. You need only look at their lives.

Leo Steinem, his daughter Gloria Steinem relates, had two points of pride: "He never wore a hat and never had a job." He was a bohemian before his time, which probably had its fun side, but once the Depression hit Leo's impracticality was hard on the family finances. By 1930 he and his wife, Ruth, were forced to sell their Toledo home and move permanently to the Michigan resort they owned, which had once been popular but now had lost its crowds. Here, far from her friends and family, and home alone all day with her first daughter, Suzanne, Ruth Steinem broke down. Gloria believes it "followed years of trying to take care of a baby, be the wife of a kind but financially irresponsible man with show-business dreams," and grief at having to give up "her much-loved job as a reporter and newspaper editor."

After Gloria was born in 1934, the family traveled a good deal, so much so that Gloria rarely attended school. She says she learned to read "from candy wrappers and Burma Shave signs." Leo's inability to make a secure living and Ruth's emotional problems strained their marriage; when Gloria was 11, her parents divorced.

Leo went on the road as an antique dealer and remarried (briefly). With Suzanne already in college, only Gloria and Ruth were left behind. The two of them soon moved back to Toledo, to live in a run-down home Ruth owned; an 11-year-old child in the care of (or, more accurately, caring for) a woman who was disoriented, addicted to chloral hydrate, and occasionally hearing voices.

Marcia Cohen, author of an excellent history of the '60s and '70s women's movement called *The Sisterhood* (published in 1988), tracked down a neighbor of Gloria Steinem's from this time. For several years, Lillian Barnes Borton's parents rented the

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downstairs apartment in Ruth Steinem's two-family house. Borton recalled that Ruth "adored" Gloria, but no one else.

> Ruth never wore anything but a cotton housedress that should have been a rag ages ago and a pair of felt slippers. She always scowled. I never once saw her smile. And she had such an evil look on her face all the time, I thought she was a witch. She would stand up on the porch upstairs and scream and curse at the kids who came in the yard...no matter who was around. And in those days, ladies didn't curse! I was scared to death of her. All the kids in the neighborhood were scared.

They lived off the little income Ruth had from leasing the land in Michigan—a girl and her emotionally disturbed mother, together in a decaying house, on a decaying alley where Gloria was once bitten by a rat. This was Steinem's life until she was 17, when her sister persuaded Leo to take charge of Ruth for 12 months, so Gloria could have one belated year of adolescence before applying to college.

The painfulness of her own childhood may be one reason Steinem has never had children of her own. She has been pregnant, however. When the spring 1971 issue of *Ms.* ran a list of prominent American women who had had an illegal abortion, Steinem was on it. "I got pregnant out of dumbness," she told Cohen. "Lack of knowledge of contraception, really." She was in England at the time, and it took her three months to find out how and where she could have an abortion. And if she had borne the child? Cohen asked. Steinem's answer evokes her mother: "I don't know what I would have done. I really don't know," she says. "If I had to come home and get married and had a child.... Maybe I could be functioning, maybe I would have survived, but I don't see myself surviving...not in any real way.... I can only imagine going quietly crazy."

Germaine Greer, the Australian author of *The Female Eunuch*, was raised by a father who spent two years in a hospital following World War II, suffering from severe anxiety neurosis. He came home an old man, and one who never embraced his daughter, but instead pretended to "shudder" whenever she put her arms around him. "It was a joke, of course, a tiresome, hurtful, relentless, stupid joke," Greer has written.

If his were sins of omission, her mother's were more aggressive. Greer, with characteristic bluntness, has said Peggy was "mean as cat's piss;" Peggy commonly struck her daughter and would do things like call her "a foul-mouthed liar" in front of a boyfriend. In one of her books Greer writes,

> Bringing boys home was a high risky business. Unless I was really sure of a young man's loyalty, I could not allow him to glimpse the bizarreness of my domestic reality. As like or not we would be assailed at the door by mother wearing an old pair of underpants on her head, to protect her hair, and very little else, except the suntan for which so much was sacrificed.

When Greer matriculated at the University of Melbourne, on scholarship, her mother made her pay room and board to live at home. After Peggy snapped at Germaine one day to leave the milk alone, because "that's for my children," Germaine (just 17) left to live elsewhere—returning a few months later only because under university rules she was too young to live in unsupervised housing. Peggy's greeting when she came back was typical: "Who let the flies in?" she said. "Oh, it's you."

Greer's search for her father's family, of which he had never spoken, was the subject of her book *Daddy, We Hardly Knew You*. As a grown woman trying to find her relatives, Greer discovered that she did not even have a right to her own name. Reg Greer had made up a name and a past to hide the fact that he was the foster son of a working-class family in Tasmania, whom he left at 17 and after one or two letters never contacted again. He was born the illegitimate son of a local businessman and his maid, though he may not have known that much himself. It took his daughter two years and a great deal of tenacity to discover the truth about who she was.

As if all this were not enough, Greer was raped at 19—a fact she revealed only recently in her newspaper column in the *Guardian*.

Sexual Politics author Kate Millet also had a troubled father—an alcoholic who left his wife and children for a mistress when Kate was 13. His departure brought his family not just grief but financial trouble too; according to one biographer, when Helen Feely Millet's efforts to sell insurance over the phone failed, Kate was worried her mother would commit suicide. So the teenager took over the family finances herself—working through high school, paying the bills, staving off creditors as much as she could.

The personal is political. **Since the '60s, that has been the feminists' call to battle. But you might never have guessed, until you started looking into their biographies, just how personal their politics are. If the *grandes dames* of the feminist movement are angry, the fact is that many of them have something to be angry about. You need only look at their lives.**

Illustration by James Genus Jr.

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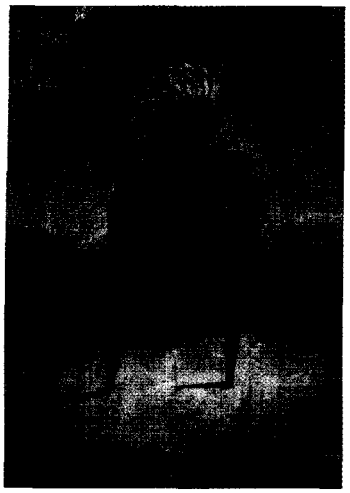

For much of her adult life Millet has been fighting mental illness (recounted in *The Looney-Bin Trip* and elsewhere) and searching, without much luck, for some emotional stability. By the time she was a senior in college, she was living with a woman (this in the 1950s). Her painfully autobiographical novel *Sita* recounts Millet's affair with a manipulative California college administrator, whose own hollowness finally led her to commit suicide. Like a number of bisexuals, Millet seems to think that breaking the great heterosexual taboo means she can break all the lesser rules of love affairs too: that she can't demand fidelity from her lovers, for example. Yet, in *Sita*, Millet is anguished every time her lover goes off for the weekend with some young man she'd picked up. And when Millet's husband, Fumio Yoshimura, left her, it drove her mad.

Other prominent feminists have also had traumatic childhoods. In *Of Woman Born*, poet Adrienne Rich tells of the "deep reservoirs of anger" she had toward her parents for the way she was brought up:

> ...the anger of a four-year-old locked in a closet (my father's orders, but my mother carried them out) for childish misbehavior; the anger of a six-year-old kept too long at piano practice (again, at his insistence, but it was she who gave the lessons) till I developed a series of facial tics.

Would-be feminist and magazine publisher Frances Lear had a childhood her ex-husband Norman Lear quite rightly called Dickensian. According to her autobiography, *The Second Seduction*, she was the illegitimate child of a teenaged mother, left in an orphanage as an infant and adopted at 14 months. Her adoptive mother had had three abortions because pregnancy would have ruined her figure (or so says Lear). After her adoptive father went bankrupt, he killed himself. One socially acceptable year later his widow married a man who then sexually abused Lear for years—a circumstance Lear says her mother realized but ignored. All of which laid the groundwork for a life colored by numerous affairs with lovers of both sexes, three failed marriages (of which she claims she's retained not one photograph), and six suicide attempts—three of them "serious."

Even Betty Friedan had a difficult time growing up. She was born in 1921 in Peoria to Harvey Goldstein, owner of the "Tiffany's of Peoria," and his wife, Miriam. Like Ruth Steinem, Miriam also quit the newspaper job "she loved" when she married. According to Friedan, Miriam Goldstein tried "being the perfect housewife and perfect mother and shifting her frustrated ambitions and excessive demands on her husband and children, which we never seemed to satisfy."

Betty was reared amid arguments over money, as her father's business suffered during the Depression and her mother fought to keep up appearances. Dominated and criticized by her mother, Friedan found refuge in schoolwork, eventually excelling at Smith and earning several fellowships in behavioral sciences, though she gave up a career to marry.

Her 1963 book *The Feminine Mystique* is supposed to describe Friedan's trapped Westchester County neighbors, but it may reflect her mother as much as anyone. In one passage Friedan writes, "we have gone on too long blaming or pitying the mothers who devour their children, who sow the seeds of progressive dehumanization, because they have never grown to full humanity themselves."

Friedan ended up with a troubled marriage herself. Before *The Feminine Mystique* was published in 1963, she and her husband, Carl, were having difficulties; afterwards, their fights became violent. During an appearance at the Plaza Hotel in New York City in 1969 she needed makeup to cover a black eye (perhaps Carl needed some too; they seem to have battered each other). Not long afterward, she and Carl obtained a Mexican divorce.

While Simone de Beauvoir apparently grew up happily, her adult life was, at the least, irregular. So many conflicting accounts have been written about the nature of her affair with Jean-Paul Sartre it is difficult to know the truth about their long partnership, and just whose affairs hurt the other the most. What seems clear is that neither was faithful to the other, even from the beginning of their relationship in 1929. Their mutual frankness about other lovers must have been difficult to bear, no matter what their stated principles of "complete honesty." Certainly Sartre's periodic proposals to one or another mistress did threaten de Beauvoir. Worst of all perhaps was his will, which left control of his papers to his adopted daughter (a former mistress) and not de Beauvoir.

Harvard law professor and author Susan Estrich was raped in 1974 by a man who attacked her in a grocery store parking lot. (He was never caught.) Andrea Dworkin was also raped as a young woman, by her abusive hus-

Katherine Dalton is an associate editor of The American Enterprise *and has worked at* Harper's Magazine, Elle, *and* Chronicles.

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band. He beat her too, once banging her head against the floor until she passed out. Dworkin tried to cover up for a while, and in one essay speaks of the anger she felt when her family and friends did not confront her about her bruises. "I remember the isolation as the worst anguish I have ever known."

More than many feminists, Dworkin is willing to connect her life and her politics, though in the third person: "The clarity of a survivor is chilling....she sees through the social strategies that have controlled her as a woman, the sexual strategies that have reduced her to a shadow of her own native possibilities."

Adrienne Rich's marriage was not violent, but it was unhappy, and her reaction to the raising of her sons was extreme. Though Rich loved and at times enjoyed her three boys, she writes of her years of mothering,

> I only knew that I had lived through something which was considered central to the lives of women...a key to the meaning of life; and that I could remember little except anxiety, physical weariness, anger, self-blame, boredom, and division within myself...

If you were to write a book on parenthood, would you choose for an epigraph a line from Dante's *Inferno*? One can only guess the unhappiness that lay behind Rich's divorce and her husband's eventual suicide.

The cumulative weight of all these unhappy childhoods and failed marriages is oppressive. After reading page after page of lives that have seen more than their share of alcoholism, mental disease, desertion, infidelity, and violence, I believe that rather than being whiny, feminists do not complain enough. I have to give these women credit for surviving.

Most feminists have shown an admirable reluctance to revenge themselves on their families in print. But like some abused children, feminists have only transferred their resentment elsewhere. If mom and dad made you a victim because they were victims themselves, then somewhere else there is a Prime Mover responsible for all this sorrow and violence. Feminists have looked long and hard to find that someone or something else to blame, and for the past three decades they have been busy kicking men, the patriarchy, the institution of marriage, the American consumer society, and the Prime Mover Himself—with great effect but varying degrees of justification.

Even the younger feminists, who are far less revolutionary than their predecessors, have the tendency to blame their problems on convenient abstractions rather than individual people (including themselves). In *The Beauty Myth*, for instance, when Naomi Wolf talks about her year of bulimia as a teenager, she mentions the diet-obsessed cousin who got her started, and her calorie-conscious mother—but saves all her criticism for the health-and-beauty industry.

Because the feminist movement has been so concerned with personal life, and because personal witnessing makes up such a large part of feminist literature, it is inevitable that there will be parallels between activists' lives and their work. Misery tends to radicalize, as Germaine Greer recognized when she wrote in *The Female Eunuch* that "revolution is the festival of the oppressed." But a result of all this is that the average reader often emerges from feminist literature asking the question: Just what kind of world are these people describing? Ours? Or theirs?

"What we all need, whatever our age, are personal role models of living in the present," Steinem wrote in her 1994 book, *Moving Beyond Words*. It seems strange that a movement so big on role models doesn't offer much variety. Where, for example, are prominent examples of happily married women? While the women's movement claims it speaks for all women, its faces looks mostly like Steinem's—or, for the younger crowd, Susan Faludi's. After Faludi published *Backlash*, she and Steinem shared the cover of *Time*, and it was clear they have a lot in common: both are successful reporters, both are single, both are upper middle-class, both are childless. No doubt they do a good job of representing feminists. But that is by no means a representative profile of American women.

Among the *Ms.* staff are some married women with children (Letty Cottin Pogrebin for one), and among academic feminists there are others. But among the leading feminist writers, examples are harder to find. Naomi Wolf's marriage to former *New Republic* editor David Shipley is a comparatively rare example, and in feminist circles—where you might think this marriage could be viewed as a good public relations bridge between hard core activists and the 20- to 30-year-olds who mostly shy away from the feminist label—Wolf has endured some criticism for, among other things, her (fairly) traditional white wedding.

And then there's the lesbian question. Straight women who might agree that a lesbian's private life is her own business will nonetheless shy away from accepting a lesbian as a role model. Yet lesbians have a presence in the women's movement that is vastly disproportionate to their numbers at large. If Millet,

The average reader often emerges from feminist literature asking the question: Just what kind of world are these people describing? Ours? Or theirs?

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The social pressures that once trapped a young mother in the house now often trap her in the workforce, and does anybody still think that waxing floors is the only soul-destroying job there is?

Rich, and novelist Rita Mae Brown can be dismissed by some as the philosophical fringe, the same cannot be said of the several gay editors and contributors at the movement's flagship publication, *Ms.*, or founding mother Greer, who as a teenager fell in love with another girl, or movement icon Simone de Beauvoir, who had an affair with a young woman student.

The National Organization for Women, *the* mainstream political group for feminists, has a membership that is up to 40 percent lesbian, according to a *New York Times Magazine* estimate. Its current president, Patricia Ireland, is a bisexual. Pressured into coming out by a gay magazine, she revealed that she divides her time between her husband in Miami, James Humble, and a female "companion" in Washington, D.C. However much feminism has changed family life, Ireland's choices, surely, are incomprehensible to most women.

Even if feminist politics are an outgrowth of difficult lives, the arguments deserve to be examined on their own merits. And they have some. Betty Friedan's *Feminine Mystique*, for one, is an extremely interesting book that does a good job of identifying the real anxieties of some suburban housewives. Friedan was good, too, at identifying certain causes, like the low status of homemaking in our getting-and-spending culture, and the isolation of women who had moved away from their extended families. Friedan (and, later, Wolf) correctly nailed the advertising business for making women—all consumers, really—feel insecure so that they spend their dollars on whatever Madison Avenue is hired to sell.

Andrea Dworkin wrote *On Pornography* after studying hard-core porn at length, to the point that her friends and family refused to enter her office. In her fight to make the case that porn feeds violence and degrades women, she is at odds with many of her feminist sisters and with much of America (given the ease of renting dirty videos). Still, she is right.

As for Germaine Greer, she has a combination of humor and intelligence that makes her unusual in the women's movement. *The Female Eunuch* is radical, but logical. Her contributions to the great feminist debate held at New York City's Town Hall in 1971, moderated by unrepentantly unevolved Norman Mailer, are very funny and worth looking up; and her book *Sex and Destiny* (on family planning, eugenics, and sterilization campaigns in developing countries) is excellent.

But it is always easier to identify a problem than to propose solutions, and with feminists as with most political revolutionaries, the prescriptions are generally worse than the disease. Relaxed divorce laws have *not* been a boon to women. (Or men. Or, especially, children.) The social pressures that once trapped a young mother in the house now often trap her in the workforce, and does anybody still think that waxing floors is the only soul-destroying job there is? Sexual freedom has come at a very high price, both in morals and health, and feminist "eroticism" is still porn, and still degrading—to women and men alike.

Most importantly, even though self-esteem is a prominent buzzword among feminists, no other group has done more to undercut the average woman's view of her own worth. The most positive characterization of the feminist reading of history is that women have been martyrs, chattel, and baby factories for thousands of years—a record of slavery unmatched by any minority group. Louder than the snorting of any male chauvinist pig are the voices of feminists crying that the sacrifices demanded of a mother are ridiculous, than women's traditional roles and jobs are unworthy of respect. As writer Orania Papazoglou has pointed out, feminist support of "mother-and-child" legislation stops short of any measure that makes it easier for a woman to be a mother; particularly an at-home mother. There are limits to what feminists define as empowerment and those limits leave a lot of women out—which may be one of the reasons two-thirds of American women refuse to define themselves as feminists. They cannot identify with a movement that does not identify itself with them.

Still, the society we live in (especially its leaders) has to a great extent adopted feminist reforms—in the workplace, and in the far more intimate areas of family life and marriage, as well. Marriage has been redefined, both legally and socially; abortion is legal under federal law; and "family" is now a word with several different definitions. For feminists, these are all victories, but the rest of us need to ask ourselves just how much women and their families have gained by feminism and how much we all have lost. Given the many problems American families are suffering today, we especially need to question how much of the feminist critique applies to normal family life—or supports it. If certain core feminist reforms are contributing to our social ills, perhaps the underlying reason can be found in the baggage so many feminists carry. Perhaps feminism is simply the bad law that comes from hard cases.

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Transcript

WORDS WORTH REPEATING

FROM VICTORIAN VIRTUES TO MODERN VALUES

Excerpted from a Bradley lecture by Gertrude Himmelfarb, delivered at the American Enterprise Institute, February 13, 1995.

When Margaret Thatcher, during her election campaign in 1983, first raised the issue of "Victorian values," she said that she was grateful to have been brought up by a Victorian grandmother who taught her those values: hard work, self-reliance, self-respect, cleanliness, neighborliness, pride in country. "All of these things," she said, "are Victorian values. They are also perennial values."

Well, not quite. Lady Thatcher's grandmother would not have spoken of them as "values"; she would have spoken of them as "virtues." It was not until the present century that morality became so thoroughly relativized that universal virtues became personal "values."

So long as morality was couched in the language of "virtue," it had a firm, resolute character. One cannot say that anyone's virtues are as good as anyone else's, or that everyone has a right to his own virtues. Only values can lay that claim to moral neutrality. The term "values" brings with it the assumption that all moral ideas are subjective, that they are mere customs and conventions, that they have a purely utilitarian purpose, and that they adhere to particular peoples—or, as we now say, are race-, class-, and gender-specific.

Values, as we now understand them, can be whatever any individual, group, or society chooses for any reason. This impartial, "non-judgmental" sense of values is now so firmly entrenched in our vocabulary and sensibility that one can hardly imagine a time without it.

Why then is there such interest today in Victorian virtues?

One answer lies in statistics. It is instructive—and disquieting—to compare Victorian "moral statistics," as they called them, with our own. In Victorian England, the proportion of illegitimate births to total births fell from 7 percent in 1845 to less than 4 percent by the end of the century. In 1960, English illegitimacy began to rise—from 5 percent in 1960 to 32 percent at the end of 1992, a sixfold rise in three decades.

In the United States, the figures are no less dramatic. Starting at 3 percent in 1920 (the first year for which there are national statistics), the illegitimacy ratio rose gradually to slightly over 5 percent by 1960 (the same figure as England), after which it grew rapidly, more than doubling by 1970, and reaching 30 percent by 1991.

Or let us take another "moral statistic": crime. In England between 1857 and 1901, the rate of serious crimes declined by almost 50 percent. The absolute numbers are even more graphic: while the population grew from 19 million to 33 million, the number of offenses fell from 92,000 to 81,000.

England's low crime rate persisted until the mid-1920s, when it started to rise, leveling off or declining slightly in the early 1950s. A dramatic rise started in the mid-1950s, and by 1991 the crime rate was 10 times that of 1955 and 40 times that of 1901.

National crime statistics for the United States start only in 1960, but local statistics suggest that, as in England, crime generally decreased from the latter half of the nineteenth century into the early twentieth century. A rapid increase started in 1960, the rate tripling by 1980. A decline in the early 1980s was followed by another rise, bringing the 1992 rate to a level somewhat lower than its peak in 1980. The rate of violent crime followed the general pattern, except that the increase after 1985 was more precipitous, making for an almost fivefold rise from 1960.

But, as Carlyle would have reminded us, statistics, even moral statistics, do not tell the whole story. In his essay "Defining Deviancy Down," Senator Moynihan describes how behavior once stigmatized as deviant is now tolerated and even sanctioned. Divorce and illegit-

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imacy are viewed benignly by some. Violent crime has become so endemic that we have almost become inured to it.

Charles Krauthammer has proposed a complementary concept: "Defining Deviancy Up." As deviancy is normalized, so what was once normal becomes deviant. The kind of family that has been regarded for centuries as natural and moral—the "bourgeois" family, as it is invidiously called—is now seen as pathological, concealing behind the façade of respectability sins like child abuse. Thus, while crime is underreported because we have become desensitized to it, child abuse is overreported, including cases (often inspired by therapists) recalled long after the supposed events.

The combined effect of defining deviancy up and defining it down has been to normalize and legitimize what was once regarded as abnormal and illegitimate, and, conversely, to denigrate and discredit what was once normal and respectable. This process has occurred with startling rapidity.

For a long time, social critics and policymakers found it hard to face up to the realities of our moral condition, in spite of the statistical evidence. The realities are difficult to confront because they violate the dominant liberal ethos that distrusts the very idea of morality. Moral principles are thought to be illiberal and coercive. Many are uncomfortable with the idea of making moral judgments even in their private lives, let alone in public affairs.

It is this reluctance to speak the language of morality, and to apply moral ideas to social policies, that separates us from the Victorians. In Victorian England, moral principles were as much a part of public discourse as of private discourse, and as much a part of social policy as of personal life. Every measure of poor relief, for example, had to justify itself by showing that it would promote the moral as well as the material well-being of the poor—and not only of the pauper receiving relief but of the independent laboring poor as well.

In recent times we have so completely rejected any kind of moral principle that we have deliberately, systematically divorced poor relief from moral sanctions and incentives. We are now confronting the consequences of this policy. Having made the most valiant attempt to see the problem of poverty as the product of impersonal economic and social forces, we are now discovering that the economic and social aspects are inseparable from the moral and personal ones. And having made the most determined effort to devise policies that are "value free," that do not stigmatize the recipients of relief or their "style of life," we find that these policies imperil both the moral and the material well-being of their intended beneficiaries.

IT IS OUR RELUCTANCE TO APPLY MORAL IDEAS TO SOCIAL POLICIES THAT SEPARATES US FROM THE VICTORIANS. IN RECENT TIMES WE HAVE DELIBERATELY DIVORCED POOR RELIEF FROM MORAL SANCTIONS AND CONSEQUENTLY IMPERILED THE MORAL AND MATERIAL WELL-BEING OF THOSE WE ARE TRYING TO HELP.

The Victorian virtues were democratic virtues—and also liberal virtues. By putting a premium on ordinary virtues attainable by ordinary people, the Victorian ethos located responsibility within each individual. This is why the Victorians put such a premium on the self—not only on self-help and self-interest, but also self-control, self-discipline, self-respect. A liberal society, they believed, required a moral citizenry. The more effective the voluntary exercise of morality on the part of each individual, the more internalized that morality in the self (in the form of conscience, character, habit, or religion), the less need there would be for the external, coercive, punitive instruments of the state. It was the great mentor of the Victorians, Edmund Burke, who enunciated this principle:

> Men are qualified for civil liberty in exact proportion to their disposition to put moral chains upon their own appetites.... Society cannot exist unless a controlling power upon will and appetite be placed somewhere, and the less of it there is within, the more there must be without....

Before concluding, I must say that in inviting a more respectful attention to the Victorians, I do not mean to condone everything in Victorian society. But I do believe that there are some things we can learn from the Victorians, not only such virtues as work, temperance, self-discipline, and self-reliance, but also the importance of moral principles in public affairs. The Victorians were candid and proud "moralists." In recent years that has become almost a term of derision. Yet contemplating our own society, we should be prepared to take a more favorable view of Victorian moralism.

We may, in fact, already be witnessing the beginnings of a moral reformation. The word "moral" has been rehabilitated; one can hardly pick up a newspaper without reading of the moral crisis of our time. A few days ago the *Washington Post* featured two articles on its op-ed page: one by the liberal columnist William Raspberry on the need for a new "moral center," and another by Joseph Califano, formerly in the Carter administration, deploring the "medicalization" of teenage pregnancy and explaining that it is a moral, not a medical problem. And then there was the remarkable sight, the other week, of the cover of *Newsweek* emblazoned with the word "Shame," and below it the subtitle, "How Do We Bring Back a Sense of Right and Wrong?"

Even an inveterate pessimist like myself may be forgiven for thinking that the day of redemption is nigh.

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In Real Life

THE DAILY WORK OF AMERICANS

FALSE FRIENDS OF THE WORKING MAN

Douglas Glant

In early 1976 while the country reeled from a truly nasty recession, the scrap metal industry—including our family business, Pacific Iron and Metal—was sunk in a Depression. Copper had plunged from $1.50 a pound to 42 cents, and aluminum went from $1.20 to 80 cents. We had to fight to buy the very limited supply and fight even harder to make a sale. Losses were staggering, cash-flow nightmarishly negative, and the balance sheet was going to hell. I knew the bank had run out of patience and was going to pull the plug if we couldn't cut losses substantially and convince them of light at tunnel's end. As a General Omar Bradley devotee, I agreed that you "feed the troops first, the officers last"; so we slashed management pay and perks and hid bills in our chief financial officer's drawer, paying only those who hollered loud and often.

We had several unions in those days; most of our employees were "represented" by the Teamsters. I had dealt with Teamster leadership before as head negotiator for the local scrap dealers during a rough strike in 1974. The powerful head of the Western Conference (let's call him Arnie) was a friend of my father. He was a former New York Giant and Washington Husky Hall-of-Famer, and I also knew him from my work as a Husky football scout/recruiter. Even so, it was daunting to sit across from this enormous guy with his huge, raised desk and man-sized cigar (bigger than a bread box, smaller than a house) to make what I thought was a wonderful proposal to save our employees' jobs while holding down costs and keeping the company alive. I offered to show him our financial records and where we'd already cut management, and requested a corresponding freeze in union employee pay and perks, to be raised per the contract (with full reimbursements for increases forgone) as soon as we turned profits around. I knew he'd agree that this was far preferable to laying off a large number of hard-working men and women. He listened pleasantly enough, puffed blue smoke at me, smiled (not so pleasantly),

AT 33 I LEARNED AN ALREADY-SUSPECTED TRUTH: THE UNIONS AND THE SO-CALLED WORKING MAN'S PARTY WERE FRAUDS. THEY DIDN'T GIVE A DAMN ABOUT OUR PEOPLE, ONLY ABOUT DUES AND POLITICAL CONTRIBUTIONS.

and said, "If we go for that, the employees will think you are a good guy and question whether they need us. But if we don't, you're a jerk to those you lay off, and the guys who get their automatic increases will love us. So, thanks, but shove your deal."

After this meeting, I went to my trump card: our all-powerful Democrat senators, Warren Magnuson and Scoop Jackson, were family friends, and with their 100 percent union ratings, were held in high esteem by Arnie. I told both of them our tale and asked them to intercede. They politely said that this was not the "type of thing" they got involved with. Oh, really? Saving blue-collar workers' jobs was not in their philosophy, Horatio?

I had met the enemy, and (with apologies to Pogo) 'tweren't us. We slashed further, laid off 25 percent of our crew, and hung on till the markets finally turned in 1977, but it was damn close. At 33 I learned an already-suspected truth: the unions and the so-called working man's party were frauds. They didn't give a damn about our people, only about dues and political contributions. We no longer have unions—our employees put their trust in us in 1979 and voted the union out. It's worked wonders for our company and all our employees. Perhaps last November 8 (my 52nd birthday) the country finally digested that same truth—that many of those who claim to speak for working men and women are not, in fact, the friends of working, taxpaying Americans. I hope that truth "shall make us free" again.

Douglas Glant is president of Glant Pacific Companies in Seattle.

TWO DAUGHTERS IN TEARS

Blake Hurst

This was hell week on the parenting front. It started out with a high, but got progressively worse.

My daughter Ann is 14, a high school freshman, and a gifted athlete. But she is not quite ready for prime time. So when her high school girls basketball team traveled to St. Joseph, Missouri, to play Bishop Leblond, we didn't expect her to play, and she didn't. But Tarkio remained undefeated, playing a near perfect game against a talented and physical team. (Are nice Catholic girls supposed to fight for rebounds like *that?*) Leblond was a state-ranked team from a larger school, and we

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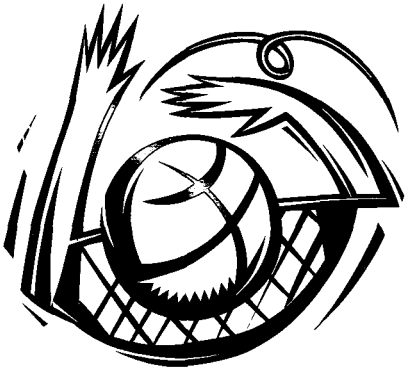
won by 10 points. It seemed a trip to the state playoffs was a foregone conclusion, and it was exciting.

We probably get a little too wrapped up in high school sports here, but there is little else in the way of entertainment in our small town. The movie theatre burned down over 20 years ago (*Red Sky at Morning* was playing) and was never rebuilt. The only good restaurant in town closed when the proprietors escaped to the promised land of Branson, Missouri, owing everybody in a 20-mile radius. The Mule Barn theatre, known throughout the Midwest for its summer-stock theatre, also burned to the ground several years ago. But our kids can flat-out play ball. The football team placed second in the state, the boys basketball team is 22–2, and Ann's team started out the season with 22 straight wins. The Leblond contest was the last regular season game, and we went into the district play-offs with a tremendous amount of momentum. That was on Friday.

On Monday, my oldest daughter, Lee, turned 16. In rural Missouri, that is a red-letter date because 16-year-olds can become licensed drivers. With less than 200 kids in high school, everybody participates in sports and music, and it is a burden to transport non-driving children to and from practices. We spent one school year leaving home at 6 A.M. for junior high basketball practice and returning to town at 5:30 P.M. to pick up our other daughter from high school practice. Since our farm is 10 miles from town, we were driving 200 miles a week just for basketball. If Lee wanted to visit with her friends, she was dependent upon us to take her to and from their houses. Not only are we many miles from school activities, but the nearest Wal-Mart is 20 miles away. Don't laugh. That is an important datum in small town America. A driver's license is freedom and the first step toward adulthood: a step that Lee looked forward to with a great deal more anticipation than her parents. She took her driver's test on Tuesday, and passed with flying colors.

On Thursday afternoon, she crumpled her first fender.

Thursday morning was the first day Lee had driven to school. She was instructed to pick up her brother, Ben, and drive directly home. But temptation, in the form of the local quick shop, was too much to resist. Our eleven-year-old Ford pickup was no match for a cement retaining wall in the parking lot, and adolescent heartbreak was the result. We first had inklings of a potential problem when Ben hurried to the house in order to be the first to report. Is there anything more fun than a sibling in trouble? In sepulchral tones reminiscent of Dan Rather reporting the latest Republican budget cut, he asked if we had seen Lee. When Lee arrived shortly thereafter and reported her mishap, she was in tears and ready to relinquish her hard-won key chain. I didn't help matters much by immediately nicknaming her "Crash."



WITH EIGHT SECONDS LEFT, WE HAD A TWO-POINT LEAD AND THE BALL. ANN WAS FOULED AND WENT TO THE FREE-THROW LINE. THE FIRST FREE THROW BOUNCED OFF THE RIM. THE OTHER TEAM GOT THE REBOUND, SCORED, AND WON THE GAME IN OVERTIME. NOW I HAD TWO DAUGHTERS IN TEARS.

On Friday, Ann's team played Rock Port, our arch rival, for the district championship. We had beaten Rock Port twice this season, by an average margin of nearly 20 points. The game started out as scripted, with Tarkio building as much as an 11-point lead in the second half. But we soon ran into foul trouble and lost two players with about three minutes left in the game. The coach walked clear to the end of the bench and found Ann. The only people in that gym more nervous than Ann were her mother and I.

Ann was assigned the other team's leading scorer and played fine defense, shutting her down for the rest of the game. With eight seconds left, Tarkio had a two-point lead and the ball. Ann was fouled and went to the free-throw line. If Annie hit her free throws, the game would for all intents and purposes be over. If this was a movie, the nets would have barely moved as the unheralded freshman sent her team to the state playoffs; the outcome would not have been in doubt. The first free throw hit the rim, bounced high off the backboard, and rimmed out. Rock Port got the rebound, went down to score, and won the game in overtime. Now I had two daughters in tears.

Julie and I have slowly come to the realization that, as parents, what we care the most about is out of our control. No, of course a high school ballgame is not the most important event in our lives. And fenders can be repaired. But our kids' safety and happiness is all that matters.

One non-injury accident and a missed free throw may seem rather trivial in this age of teenage pregnancy, drug abuse, and drive-by shootings. Our isolation here in Tarkio is more than compensated for by the safe environment for raising our children. When some kids who moved to our town from San Diego tried to organize a gang, the kids at school were amused, and the erstwhile gang-bangers were unsuccessful at importing the Bloods to Tarkio. I guess corn takes root in our soil more readily than teenage violence.

Trivial, maybe, but the events of the last week have portended a time when our kids will no longer be safe at home and at school in our small town. And I'm not ready.

Blake Hurst is a Tarkio, Missouri, corn farmer.

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Sports Pork

Tax-paid stadium-building madness makes sports moguls rich

by Philip Siekman

A band played. Streamers dropped from the ceiling. And in a page-wide headline, the *St. Louis Post-Dispatch* shouted, "FINALLY, FOOTBALL!" Seven years after the Cardinals decamped for Phoenix, the Los Angeles Rams said they were coming to town. As cheering fans crowded into the city's convention center, Georgia Frontiere, the Rams' owner, smiled winningly as she signed a poster-size "relocation agreement." She had much to smile about. In exchange for $250,000 a year in rent and only half of gameday expenses, the Rams would get a new stadium, a separate practice facility, all the revenues from boxes, club seats, and regular tickets, guaranteed sales of the deluxe seats, and most of the advertising and concession profits including those generated by an adjoining convention center. All told, a team that last year lost $6 million was being handed a potential annual profit of $20–25 million.

To cap the deal a Missouri businessman proposed to pay $60 million to buy about 30 percent of the Rams—valuing the team at about $200 million, more than the probable worth of the Super Bowl-winning San Francisco 49ers, the New York Yankees, or the Los Angeles Lakers. Amidst all the excitement, nobody observed that the reason the Rams were suddenly so valuable had something to do with the largesse of Missouri's politicians.

At the ceremony last January, those politicians and the businessmen who had spurred the stadium effort first smiled—and then exhaled. When the Cardinals left, they had vowed to capture another football team. To accomplish this, the city, the surrounding county, and the state of Missouri issued a clutch of bonds to fund today's nearly finished $276 million private-boxed, club-seated, concession-rich, dome-roofed stadium. But in 1993, just as contractors were replacing a bus station with a giant hole, civic leaders had watched ashen-faced as the National Football League chose Charlotte and Jacksonville for its two new expansion teams. To lose the Cardinals to Phoenix was tough. To be beaten by the back country of North Carolina and Florida was downright embarrassing—and panic inducing. How many truck pulling contests could be booked? How often would the Pope or Pavarotti come to town?

ST. LOUIS POST-DISPATCH

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FINALLY, FOOTBALL!

SPECIAL 16-PAGE SECTION

St. Louis Lands Rams; Now It's In Fans' Hands

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Worried St. Louis leaders reorganized. Former Senator Thomas Eagleton came in as quarterback. Congressman Richard Gephardt called the Rams' management. And, last January, St. Louis scored. Only the congenitally discontent noted that the price of victory was enough to buy a pro football team outright and run it along with other civic assets like the garbage truck fleet. Only the perpetually pessimistic thought the play might be called back. But two months later, the *Post-Dispatch* had another headline, "NFL VOTES A BIG NO." Mrs. Frontiere's fellow team owners said the deal didn't meet their rules on relocation. Of course, if she would share in the proceeds.... She offered $7 million, quickly went to $25 million. When the other owners wanted more, the argument headed toward the courts.

The mystery in St. Louis is not the politicians' wanton way with money, nor the greed of pro team owners, but the acquiescence of fans and taxpayers. Paying off the stadium bonds—all issued without taxpayer approval—will take $20 million a year. An annual contribution to stadium upkeep runs another $4 million. Neither the stadium nor the attached convention center will ever pay property taxes or send a rent check to their government owners. Missouri taxpayers and their children and their children's children will foot the whole bill. They will also cover the cost of luring a team to town as ticket-buying fans. All 46,000 season tickets were allocated to a "seat license" scheme that forced fans to pay now for the right to pay more later for a ticket.

Boosters launched the seat license program to gather some $70 million that would be used to pay $13 million of the Rams' moving expenses, to reimburse the

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$9 million that the negotiating committee spent trying to line up a team, to "improve" the stadium even before it is done, to cover other miscellaneous items such as a Rams souvenir store, and, in a remarkable transfer of eastern wealth to western pockets, to pay off *Anaheim's* stadium improvement bonds for $27 million. Nobody knew what season tickets might cost now or later. But in less than three weeks fans sent in 76,000 applications complete with deposits, jostling for the right to pay $400 to $4,000 for a seat license that would be forfeited if they ever failed to buy a season ticket over the next 15 years.

St. Louis's mighty giveaway is part of a nationwide epidemic that extends down to even small cities and minor league sports. There are already more stadiums and arenas than there are teams, yet more get built with taxpayer subsidies every year. It wasn't always so. When there were only 16 baseball teams in 10 cities and professional football was the Sunday afternoon preoccupation of the few, the factories in which sports teams plied their trades were no more considered a public obligation that the local textile plant or department store. Then, in 1953, Milwaukee built County Stadium for the former Boston Braves. That started an ever-escalating game of competitive subsidies as cities tried to outbid each other.

As owners learned to pit one city against another, the pace of construction picked up, and more and more revenues got earmarked for the teams. From 1975 to 1990, about $1.2 billion was spent on playgrounds for professionals. That much again was sunk in the next four years. Currently, about $1.5 billion more stadium and arena construction is under way, with another $5 billion or so under discussion. In the nation's capital, for instance, the mayor recently announced that the District of Columbia would pay as much as $65 million toward a new arena for the Bullets and the Capitals, the local basketball and hockey teams—even as $70 million was being cut out of the pay of the city's policemen, firemen, and municipal workers.

Philip Siekman, a former Fortune *editor and CEO of various companies, is now a freelance writer in Washington, D.C.*

Powering the surge in recent construction has been the skybox, that suite of luxury perched above the rowdy crowd and leased at hefty prices from the club, not the stadium owner. Just 100 skyboxes put $10 million in the owner's pockets. But doing that the right way takes a new facility. A new facility also provides a novelty factor that can raise ticket revenues by 60 percent or more. Floors of surcharged "club" seats, more bars, more and fancier food concessions, and souvenir stores bring in still more revenues. All told, a new facility can quadruple a team's annual gross, and thus hand the owner a windfall. Shortly after the Baltimore Orioles moved into the state-built Camden Yards stadium, the team sold for a record $173 million.

ST. LOUIS'S MIGHTY GIVEAWAY IS PART OF A NATIONWIDE EPIDEMIC THAT EXTENDS DOWN TO EVEN SMALL CITIES AND MINOR LEAGUE SPORTS. THERE ARE ALREADY MORE STADIUMS AND ARENAS THAN THERE ARE TEAMS, YET MORE GET BUILT WITH TAXPAYER SUBSIDIES EVERY YEAR.

Civic leaders justify their subsidies in many ways. The new place will hire a lot of people. The facility will be an urban renewal centerpiece. Entertainment dollars will be held in the city. Revenues from sales and other taxes will climb. We'll get lots of free publicity. People will want to move here, relocate offices and plants here. Downtown will be saved.

Supporters claim that every dollar spent at a new stadium will multiply into money rippling through the economy for many tomorrows to come. For a quarter century, economists have been searching for that ripple. They are still looking. Robert A. Baade, an economist at Illinois's Lake Forest College, investigated 36 cities with at least one major league team. In a Heartland Institute report, Baade concluded that Indianapolis might have gotten something out of professional sports. He couldn't find an economic benefit anywhere else. In four cities, including St. Louis, he discovered a *negative* impact.

As far back as 1974, one researcher established that there is no economic rationale for subsidizing a sports stadium, that "the prime beneficiaries" are "the owners of sports teams." In 1990, Dean Baim of Pepperdine University calculated the net accumulated value of 14 professional sports stadiums. L.A.'s privately built and owned Dodger Stadium was in the positive column. The rest were losers. New Orleans's Superdome represented a subsidy equal to $123 from everybody in town.

One flaw in the arguments about how pro teams are good for the city's businesses is the illusion that what's spent by fans on game days wouldn't get spent on other entertainment, that the crowds jamming into the new stadium-adjacent restaurants wouldn't have eaten anywhere else, that one bar hiring people isn't replacing another that is shutting down. A lot is also left unasked. Are the new jobs seasonal, part-time, low paid? What happens if the team gets a better offer and leaves town?

But on a subject as thrilling as sport, who pays attention to economists? Cleveland got new sales taxes approved for its $275 million Gateway Center with the promise of 28,000 new jobs, housing for the homeless, and millions for the schools. With overruns and debt service, the bill slid past $700 million. A former Cleveland city planner estimates that the facility created 1,500 temporary construction jobs and places for 2,000 waiters, waitresses, ushers, and ticket takers. The Indians got a new ballpark. The Cavaliers got a new court. The schools also got something: property tax abatements that reduced the tax base.

William J. Hunter, who teaches economics at Marquette, has pointed out that if stadiums are such good multipliers of invested funds, cities should build "Taj Mahal" sports facilities to get back even more

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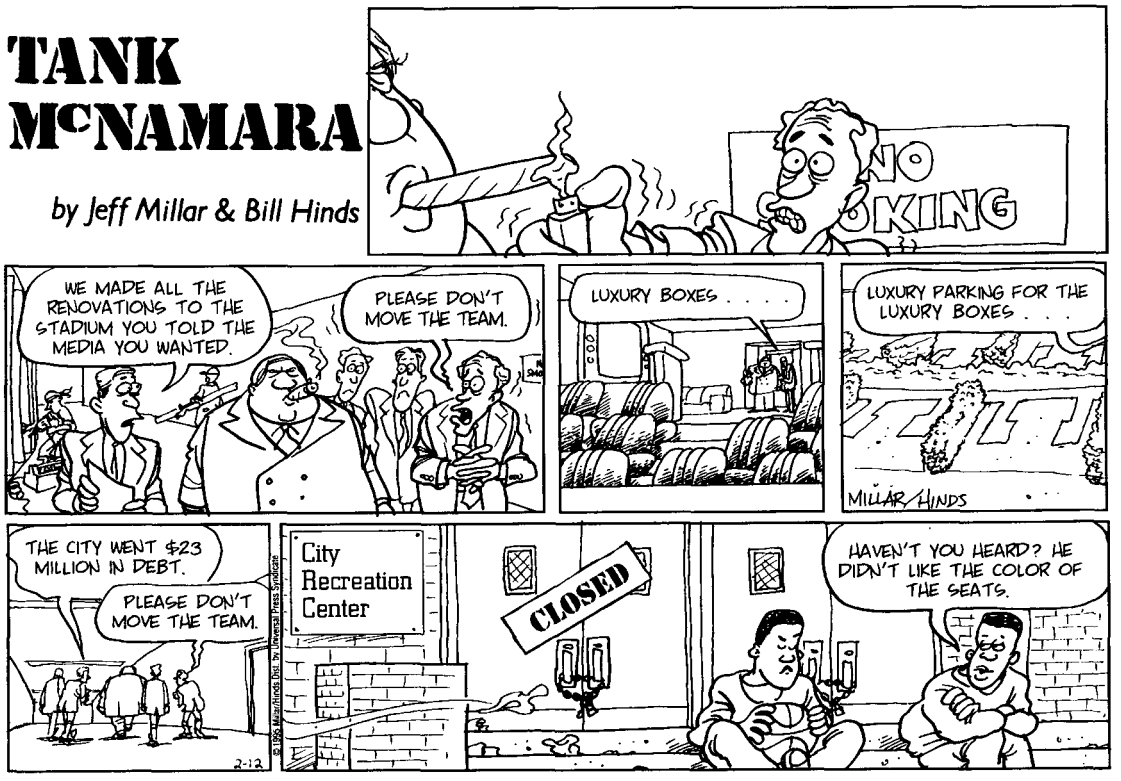
money, create even more jobs. But of course that wouldn't work—because politicians forget where the money they sock into stadiums comes from. The civic project first takes dollars *out* of the economy by taxing them away from the citizens. Private spending is replaced with public spending—inevitably at a discount for the layer of inefficient bureaucracy. If the capital is raised by selling bonds outside the community, there will be a temporary boost, but for the next 25 to 30 years, all that money *plus* interest flows back out of town. Then the multiplier works in reverse.

Why more politicians don't "just say no" to team owners is hard to figure. No politicians have ever been rushed out of office because a major league team left town. The "boys club" atmosphere surrounding professional sports, the thrill of sharing in victories and commiserating in defeat, may be part of what hypnotizes civic leaders. Mayors get recognized on the arena's public address system. Councilmen are invited to join the downtown crowd in their boxes. Heywood T. Sanders, on the faculty of San Antonio's Trinity University, takes a more materialistic view. He sees sports plants as just another diversion of public funds into ill-conceived efforts to save the urban core. Civic decisions, he points out, are heavily influenced by tight groups of businessmen and property developers with a strong economic interest in the vitality of the downtown. Public investment dollars, says Sanders, "have been employed and re-employed in an effort to bolster the perpetually sagging fortunes of downtown central businesses."

Professional team owners are not in the game just for prestige and pleasure. As the demand for electronically transmitted entertainment grows, professional sports franchises become more valuable. Wayne Huizenga doesn't own the Marlins, the Panthers, and a piece of the Dolphins because he likes to pal around with the jocks. Ted Turner isn't in the sport business because his wife likes to exercise. Sports teams are part of a profitable industry. Putting up a stadium ought to be just another manageable cost of doing business. The only reason team owners haven't been building their own factories is because cities tell them that they don't have to.

All is not gloom. When New Jersey's governor wouldn't go along with a taxpayer-supported arena on her side of the Delaware River, private sources came up with money for a new downtown facility for Philadelphia's 76ers and Flyers. Shawmut Center, a $160 million replacement for the venerable Boston Gardens, is privately funded. And while Portland's new court for the Trail Blazers got a little help from the taxpayers, most of that bill is being covered privately. But others never learn. As soon as Anaheim officials realized that St. Louis fans would pay off their stadium debt, they started musing about going after another football team and building a new baseball park for the Angels.

Good feelings, civic pride, and other benefits do flow from a stadium and a pro team, even if they can't be measured in dollars. Part of the appeal of urban life is an afternoon at the ball diamond or an evening at the hockey rink. But the town and its citizens will get the same benefits no matter who pays for the staging ground. Even with a pro team in four sports, a city that can't afford to clear the trash and hoodlums off its streets, pay its teachers a decent wage, and open its library on weekends is not a major league town.



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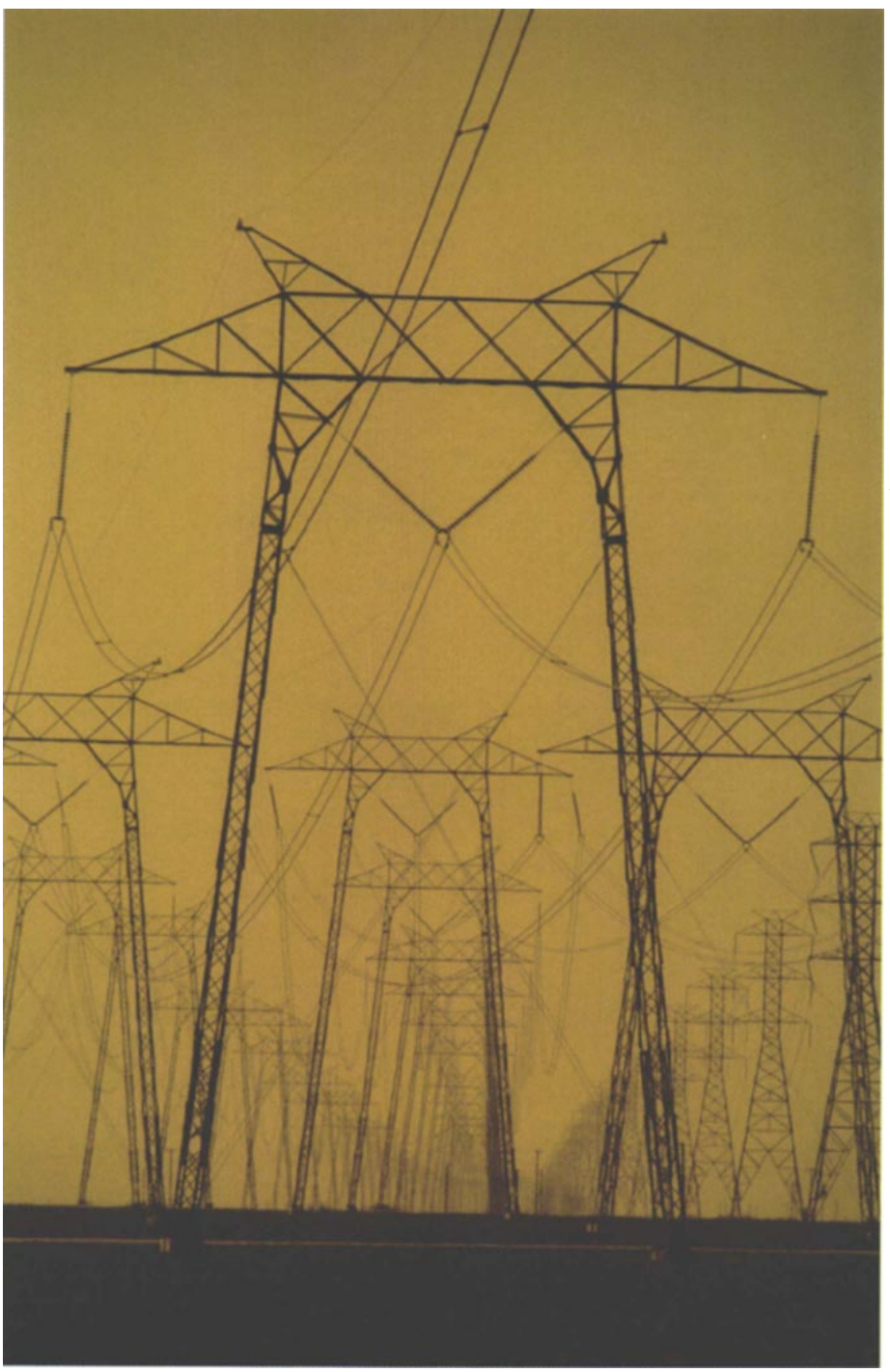
the Electric Economist

Competition Comes to the Electron Superhighway

by Jonathan Marshall

Scene I (1995): *"Wow, Marge, our electric bills this winter have been out of sight! We're going to go broke if it doesn't warm up soon so we can quit running the furnace."*

Scene II (2000): *"Wow, Marge, look at all this junk mail! First it was the credit card companies, then the long distance carriers, and now the power brokers hitting us up with special deals. Seems like every day we get offered some new plan for buying electricity at a discount. How can we keep them all straight?"*



Within a few years, power suppliers will be marketing electricity to ordinary customers as vigorously as long-distance telephone companies do now. In England and Norway, competition in the electric power market is already a reality. In California—where rates are 40 percent above the national average—competition has been on the agenda since last year, when the state public utilities commission stunned the industry with a landmark proposal to let retail customers deal directly with the supplier of their choice.

Prompted in part by California's lead, utilities and regulators all around the nation are starting to listen to consumer demands for competitive rates and service. As the manager of one public power agency in northern California put it, "not since the introduction of the Beach Boys and the California surfing lifestyle has the state had such a huge opportunity to influence the rest of the country."

Although many environmentalists, union leaders, and even a few consumer groups are skeptical of competition, some utilities are rushing to meet the future. Last October, for example, Spokane-based Washington Water Power and

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Reno-based Sierra Pacific Resources announced plans to merge, citing growing competition in the utility industry and their plans to invade the California market as reasons to cut costs and boost their marketing clout.

In December, UtiliCorp United of Kansas City, Missouri said it aimed to become the first utility to operate in 50 states. It will market electricity and gas nationally under the brand name EnergyOne to take advantage of markets as they open up. "We decided [customers] will be taken away from us unless we get on the offensive," said the utility's chairman, Rick Green.

And Wisconsin Electric Power is urging its state's regulators to throw the market open to competition even before California. "As a low-cost producer, we see regulatory change as an opportunity to grow market share," said David Porter, senior vice president.

"Retail competition in electricity can be delayed but it cannot be denied," says Vinod Dar, chairman of Jefferson Electric, an electricity broker based in Washington, D.C. "Increasing competition in the distribution of goods and services is a systemic national and global trend that the regulated, entrenched distributors of electricity can as little resist as a man on a beach can stay a tidal wave. Competition in distribution has come to industry after industry.... It is accelerating in natural gas and local telephone calls and inexorably and inevitably coming to the electromagnetic spectrum and electricity."

Dar predicts that prices will tumble "far and fast" when competition hits the retail electric market, a prediction borne out by Norway's experience, where customer bills dropped 20 percent or more after the country threw its market open to competition in 1991. "Tens of billions of dollars per year will be liberated, greatly augmenting the competitiveness of the U.S. economy and the well-being of homeowners and small businesses," said Dar.

Beyond reducing prices, shifting control of the power market from producers to consumers will prompt a spurt of technical and financial innovation to satisfy specialized customer demands. Instead of one-shoe-fits-all service, power entrepreneurs will offer a host of customized options based on time of use, quality of frequency and voltage control, type of fuel, credit terms, and service plans. In addition, they'll market complete energy solutions, installing highly efficient appliances or construction technology to satisfy customer needs.

"Retail competition in electricity can be delayed but it cannot be denied," says Vinod Dar, chairman of Jefferson Electric. "Competition in distribution has come to industry after industry.... It is accelerating in natural gas and local telephone calls and inexorably and inevitably coming to the electromagnetic spectrum and electricity."

Doug Bechtel, general manager of Orcas Power and Light in the Pacific Northwest, said customers can expect an explosion of services similar to that in the telephone industry. "I now have touch tone, call waiting, an FCC charge, a hearing impaired surcharge, an enhanced 911 charge and the telephone company is now offering me personal voice mail and differentiated ringing so I can tell who the telephone call is for.... This same scenario will be played out in the electric business."

These heady visions are hard for a slow-moving industry to absorb. "There's a lot of chaos and confusion in thinking about the future," said Pacific Gas and Electric vice president Bob Haywood. "This has come at us very quickly. It's really a sea change, a watershed event."

One force driving the push to competition is the failure of traditional monopoly regulation, which has saddled customers in many states with high rates, long delays in reacting to market changes and costly bureaucratic battles. In its proposal for industry competition last year, the California Public Utilities Commission cited dissatisfaction with its own "fragmented, outdated, arcane and unjustifiably complex set of regulatory policies."

What makes competition possible, in turn, is proliferation over the past 15 years of independent power producers—who currently sell electricity wholesale to utilities, but could sell directly to consumers if regulators open transmission and distribution lines to all comers. The independent producers' market has become highly competitive, driving down the cost of new power. In 1992, for the first time, independents built more new generating capacity than utilities did.

Wholesale markets for electricity are already flourishing as utilities buy and sell surplus power to each other on an hourly basis to avoid having to build new plants. A broker in PG&E's energy control center in San Francisco may purchase power from New Mexico one morning and sell to a utility in Washington that afternoon. High-voltage transmission lines, veritable electron superhighways, carry power thousands of miles with low losses, expanding the scope of regional markets. With more computer power and intelligent metering, nothing stands in the way of extending retail competition down to the household level.

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The political breakthrough for retail competition came in April 1994, when the California Public Utilities Commission proposed giving customers "direct access" to the power company of their choice. Its timetable envisions opening the door first to large industrial

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customers in 1996 and finally to all consumers by January 1, 2002. The commission has been taking public comment and expert testimony, and consulting with state and federal officials, to refine its recommendations.

Instead of fighting the utility commission's plan, California's three investor-owned utilities have embraced the general thrust. In February, for example, Pacific Gas and Electric proposed that, starting next year, its large commercial and industrial customers should have the right to buy power from any producer. A senior executive said the utility wanted to "break the logjam" of the restructuring debate with this experiment.

PG&E has been preparing for the inevitable with a wrenching program of cost cutting, including a 25 percent staff reduction that has prompted Electrical Workers Union members and other rank-and-file workers to resist the California restructuring proposal. Workers have rallied on the steps of the utilities commission and barraged the media with complaints that PG&E is risking service quality and safety by cutting payrolls. The utility has also frozen its electric rates to get them more in line with neighboring states.

But while utilities and their major customers are embracing competition, other interest groups demand that state regulators go slow or reverse course. Major legal and policy questions must be resolved before competition sweeps the industry:

◦ Who has authority to deregulate? In addition to the utilities commission, the state legislature, other states and the Federal Energy Regulatory Commission have some overlapping jurisdiction. Hundreds of state and federal laws may need to be changed to permit interstate sales of electricity to end users. This could leave the reform stranded in court for years.

◦ Who will bear the transition costs? Competition entails losers as well as winners. Among the biggest potential losers could be owners of expensive nuclear power plants whose value would plummet if regulators no longer guaranteed their rate of return. Resources Data International, a consulting firm in Boulder, Colorado, estimates that a competitive market would leave $163 billion in utility assets uneconomic or obsolete. Utilities say they should be compensated for this "stranded investment," built when the rules of the game were different—possibly by imposing a surcharge on all customers for the first several years of competition.

• Who should enjoy the benefits of competition first: ordinary ratepayers or big industrial and commercial users? The latter are the easiest and most practical to serve first, but consumer groups denounce deregulation that starts with big business and lowers household bills only later.

MOVEMENTS TO DEREGULATE OTHER INDUSTRIES, FROM TRUCKING TO TELEPHONES, FACED THE SAME OBSTACLES AS THE ENERGY LIBERATORS MUST NOW BATTLE: LEGAL TANGLES, OPPOSITION FROM ORGANIZED LABOR, AND DEEP AMBIVALENCE WITHIN THE INDUSTRY ITSELF. ALL CAN BE OVERCOME.

• What will be the fate of current state programs that subsidize rates for low-income customers, promote energy efficiency, and mandate the use of "renewable" energy? Greens and poverty activists fear that these costs will be harder to pass on to the public when they are no longer hidden in utility bills. Shifting low-income assistance programs to the California State General Fund "would surely lead to these programs' demise," argues a coalition of liberal groups including Chinese for Affirmative Action and the Latino Issues Forum. Similarly, Ralph Cavanagh, an attorney with the Natural Resources Defense Council, insists electricity competition "threatens to unleash significant and irreversible damage to both California's economy and its environment" by putting low energy prices ahead of lower energy use and the promotion of renewables.

But competition advocates say that if energy efficiency and fuel diversity are sound investments, consumers and producers will make them in a free market—as many already are. Competition will force electricity suppliers to price according to true marginal cost, rather than average cost, and this will encourage customers to control their energy demand more precisely. Competition will also give power companies an incentive to sell more than just electrons, including energy services like efficient lighting, innovative building design and heating, more informative metering, and energy controls that respond to changing prices.

Competition may not kill the existing renewable energy industry, either. Jerry Alderson, the CEO of Kenetech, a San Francisco-based leader in windpower, says he's a "wild fan of competition." In his view, power marketers will hedge against the risk of rising fossil fuel prices by diversifying their generation resources to include some wind power. "But we're the only company saying that," he conceded. "The problem is that most supporters of renewables don't trust markets. They tend to have backgrounds in government."

Alderson also cites surveys suggesting that 10 percent of customers would be willing to pay more for "green" power from environmentally "benign" sources, such as wind, solar, or geothermal energy. Just as some mutual funds now market to "socially responsible" investors, so could power companies if they were liberated from regulation. But "right now I can't give you frequent flyer miles for green electrons," Alderson complained.

Movements to deregulate other industries, from trucking to telephones, faced the same obstacles as the energy liberators must now battle: legal tangles, opposition from organized labor, and deep ambivalence within the industry itself. All can be overcome. The big questions in electricity deregulation are not of the "if and why" variety, but rather center around "when and how." Whether this inspires dread or euphoria, the power industry is headed for its most radical period of change since the days of Thomas Edison.

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Flashback

TO KNOW NOTHING OF WHAT HAPPENED

BEFORE YOU WERE BORN IS TO REMAIN EVER A CHILD—*Cicero*

The Strange Populism of the Anti-Masonic Party

"'Twas a night as dark and drear, as e'er o'erspread the Earth"—or at least that's how partisans imagined the evening in September 1826 when William Morgan was drowned in the Niagara River and up bobbed the oddest political party of our history.

Morgan, a 52-year-old itinerant toper, had fought under Andy Jackson at the Battle of New Orleans and he kept battling for the rest of his tumultuous life. He settled in Western New York, where he joined the Masons, the centuries-old secretive fraternal order. The voluble boozer was bounced from chapter to chapter, until, resentful, he exacted revenge by revealing Masonic oaths and pledges and other arcana in his book *Illustrations of Freemasonry*. For his perfidy Morgan was "plunged into the dark and angry torrent of the Niagara…at the black hour of midnight." (His body never washed ashore, and to this day a few loyal Masons insist that Morgan was spirited north to Canada, where he swore—and kept—another oath, this one of silence.)

Rumor and speculation ran rampant. A cover-up was alleged: Morgan's disappearance was desultorily investigated by a legal-political structure rife with Masons, from Governor DeWitt Clinton on down. The region was already on the cusp of a great and fiery religious revival: Morgan's murder lit the match, and the tinderbox blew.

Anti-Masons held raucous caucuses that resembled revival meetings. Claiming to be animated by "the blessed spirit," they sang not of William Morgan, drunkard, but of Captain Morgan, the people's hero:

A Martyr has yielded his life to the cause
Of freedom and truth, and respect for the laws;
'Tis *Morgan* whose blood still proclaims from the ground
That life is in peril, where masonry's found

How absolutely baffling it must've been for a typical Mason—a well-to-do merchant, prosperous and respected—to wake one morning and find himself vituperated as a homicidal cabalist!

In 1873, two generations after the backlash, one elderly New York Mason recalled the sting: "Masons were excluded from a participation in the Holy Communion; their names were thrown out of the jury box; and at the social gatherings of the grave matrons of the neighborhood resolutions were…passed forbidding their daughters from keeping company with a Mason."

The fury concretized into the Anti-Masonic Party, which in its newborn purity rested on a single plank: to bar Masons from political office, juries, indeed all of public life.

In 1827 Anti-Masons won 15 seats in the New York Assembly; over the next quadrennium the party became preeminent in much of New York and Vermont and parts of Pennsylvania, electing congressmen, legislative blocs, and even capturing Vermont's governorship. In 1830 the Anti-Masons barely lost the gubernatorial race in New York, 128,000–120,000. Damning secret societies became the rage: John Quincy Adams, trawling for Anti-Masonic votes in 1828, offered to expose the treacheries of Phi Beta Kappa.

Then came the locusts. A host of cunning men who would later found the Republican and Whig parties—William Seward, Thurlow Weed, Millard Fillmore, Horace Greeley—cut their eyeteeth on Anti-Masonry. They'd found a regular lode of votes, but still, they winced at a rabble given to such overheated utterances as "Let the friends of good order and civil law rise in their strength, and drive back to the dark regions from which it sprang this Beast with Seven Heads and Ten Horns." ("Anti-Masons tended not to believe in venial sins," historian Lee Benson noted with understatement.)

The coup was bloodless. Master strategist Weed ousted the leader of the red-hots, publisher Solomon Southwick (poor Solomon's habit of basing major decisions on a coin flip proved lethal to his reputation), and the party fell to a cadre of well-groomed young lawyers on the make. The new Anti-Masons committed the party to Henry Clay's program of high tariffs, a national bank, internal improvements, and other matters unrelated to the Beast with Seven Heads.

The deposed Southwick saw "the cloven foot of Clay…in the movements of some folks who pretend to be Anti-Masons," but the hijacking was successful. Lost in the shuffle was the party's reason for being: the Anti-Masons were now indifferent on the subject of Masonry! In 1832 Weed engineered the nomination of an unrepentant ex-Mason, William Wirt, for the presidency; Wirt carried only Vermont. The party was finished; the smooth alchemists Weed and Seward admixed its tailings with Henry Clay's National Republicans to create the Whigs, while the firebrands were left in the lurch, betrayed and sputtering.

And what of Masonry? The order was decimated in the Northeast. In 1825 the Masons counted 480 lodges and 20,000 members in New York; a decade later they numbered fewer than 50 lodges with 3,000 adherents. Today the Masons are no more clandestine than the Rotary Club; lodges are likelier to sponsor Little League teams than governors.

Oh, and by the way, 14 presidents have been Masons. Which raises the question: what if the conspiracy theorists were right?

—Bill Kauffman

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BookTalk

MONSTER MAO

By John S. Aird

The Private Life of Chairman Mao
By Dr. Li Zhisui
(New York: Random House), 682 pages, $30

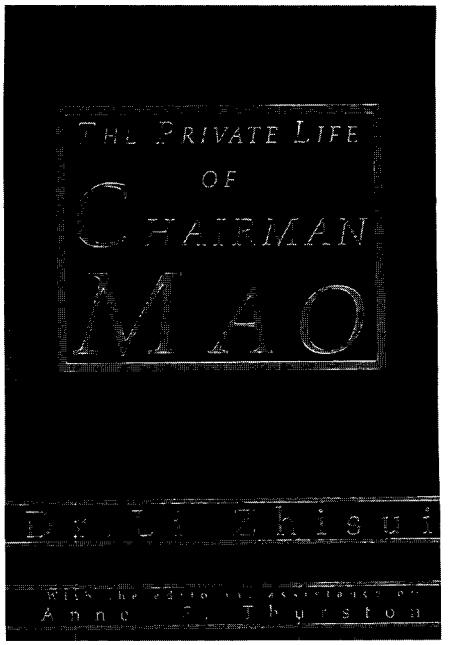
As Andrew Nathan notes in his foreword to this volume, "No other leader in history has held as much power over so many people for so long as Mao Zedong, and none has inflicted such a catastrophe on his nation." For that reason understanding the character of Mao is essential if one is to understand what happened in China during the first 30 years of the People's Republic. This period was marked by disastrously misguided policies that damaged the Chinese economy, wasted both human and natural resources, and wrought havoc, suffering, and death on the Chinese people. The major responsibility for these tragic mistakes, as Li Zhisui makes clear, rests with one man—Mao himself.

Li knew him well. He served as Mao's personal physician from 1954 until Mao's death in September 1976, but Mao also relied on him as a confidant, informant, and sounding board for some of his ideas. Mao basically distrusted other party leaders and kept them at a distance. He was more open and intimate with his guards, secretaries, and Li, people without political power from whom, therefore, he had nothing to fear.

The Mao who comes to life in the pages of this book is venal, vengeful, hypocritical, vainglorious, and devoid of human feeling. The serious flaws in Mao's character are reflected in his policies, every one of which, from the "land reform" to the Cultural Revolution, exacted a toll in human lives and anguish. Mao admitted that he did not understand economics, yet he insisted on implementing economic policies based on ideology that often lacked common sense and were out of touch with reality. When they miscarried, he blamed others, rejected criticism, and would not listen to bad news. Mao thought himself infallible and became addicted to flattery. He demanded absolute loyalty from his followers but felt no enduring loyalty to anyone, not his wives, his children, his personal staff, or his comrades. Zhou Enlai, who was slavishly loyal, Mao held in contempt.

Among Li's most striking revelations is the evidence of Mao's callous disregard for human life. When Mao's Great Leap Forward policy led to a national famine in 1959–61 and tens of millions were dying, Mao simply did not care. Li quotes him as saying, "We have so many people we can afford to lose a few." At the start of the Cultural Revolution in 1966, Mao said, "A thousand people will die this time, I think. Everything is turning upside down. I love great upheavals." But Mao had never concealed his attitude. In a speech in Moscow in 1957 he appalled the Russians by insisting that even if half China's population of 600 million were killed, "the country would suffer no great loss. We could produce more people."

Many readers of Li's book will be even more surprised to learn that Mao was an inveterate womanizer, though there had been some evidence of that even in the late 1930s, when the party leaders were living in the Yanan caves after the Long March. Mao was fond of ballroom dancing and used the dances to select his sexual partners, as did many of his associates. After 1949, whole dancing troupes were part of Mao's entourage, and innocent young women were selected from peasant families



to gratify Mao's insatiable sexual appetite. When he tired of them they were replaced by fresh recruits.

Mao showed how little he cared for their welfare when he became a carrier of a sexually transmitted infection, trichomonas vaginalis, which he passed on to all his women. The infection is virtually asymptomatic in men but often causes acute distress to women, yet Mao would not let Li treat it. "If it's not hurting me," he said, "then it doesn't matter." Despite his public espousal of women's rights, Mao regarded women mainly as a source of gratification.

Although he hoped to find a place in history as one of the oracles of Marxism, his interest in history focused on China's imperial past. He admired most those emperors who had been most brutal in pursuing their goals. Like them, Mao was obsessed with power and would use or destroy anyone to attain his goals.

In view of Mao's obvious deficiencies as a person and as a leader, the wonder is that foreign observers were so slow to take his measure. One explanation is that, especially in the United States, where support for Chiang Kai-shek and the Nationalists determined policy toward China for many years, some journalists and scholars attempted to offset what they saw as the prevailing bias by becoming apologists for Mao and the Communists. The result was a political polarization on matters relating to China that generated great heat but did little to enlighten the public.

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Not all China hands were distracted by the controversy. Some published sober and penetrating analyses from at least the 1960s onward. However, the partisans were slow to learn from their more objective colleagues. Among the more influential of the slow learners were the journalist Edgar Snow and Harvard historian John K. Fairbank. Snow's influence was based on his unique vantage point as the first American correspondent to visit Yanan in 1936. But his value as an observer was compromised by his admiration for Mao. Even as late as 1970 in his *Red China Today,* Snow maintained that no famine had occurred in China in 1959–61, denied Mao's indifference to great losses of life, and likened the carefully orchestrated cult of Mao to the spontaneous British "idolatry" of Queen Victoria! The Cultural Revolution he viewed as merely a generational change in leadership, missing altogether its real significance as an attempt by Mao to regain lost power. Snow's arguments in defending the Chinese Communists against foreign criticisms were contrived and sometimes absurd.

Fairbank, who saw himself not just as a scholar but as an opinion-maker, insisted that one could not understand contemporary China without understanding Chinese history, which, if true, should have made Fairbank, the dean of China historians in the West, the most perceptive analyst of the People's Republic of China. In fact, however, his interpretations, though sententiously propounded, were often as superficial as Snow's. Even as late as 1987 he still saw the Cultural Revolution simply as Mao's way of curbing Chinese bureaucratism and elitist privilege.

Fairbank repeatedly admonished other Americans against trying to judge China by our standards, but his own approach was slanted to serve his personal political agenda. He wanted the United States to seek a rapprochement with the People's Republic and abandon the Chinese Nationalists on Taiwan. This led Fairbank, like Snow, to make excuses for Mao and rationalize his irrational and inhumane policies.

Toward the end of his life, Fairbank seems to have become disillusioned with Mao, whose major policies, he finally conceded, were national tragedies that set China back. Dispassionate scholarship would have reached that conclusion long before. In any case, thanks to Li and others, Mao's limitations are now beyond doubt. He had the skills needed to lead a successful war of liberation, to unify and inspire the Communist movement, and to establish in 1949 a new China that commanded the respect of other nations. Nothing can ever take that from him. After that, however, Mao was an unmitigated national disaster.

John S. Aird, former U.S. Census Bureau senior research specialist on China, is the author of Slaughter of the Innocents: Coercive Birth Control in China, *published by the AEI Press.*

EXCERPTS FROM *THE PRIVATE LIFE OF CHAIRMAN MAO*

Morality had no place in Mao's politics....

Mao had no friends and was isolated from normal human contact. He spent little time with his wife and even less with his children. So far as I could tell, despite his initial friendliness at first meetings, Mao was devoid of human feeling, incapable of love, friendship, or warmth.... I never understood his apparent callousness....

Mao was [willing] to sacrifice his own citizens in order to achieve his goals.... "The atom bomb is nothing to be afraid of," Mao told Nehru. "China has many people. They cannot be bombed out of existence. If someone drops an atomic bomb, I can too. The deaths of 10 or 20 million people is nothing to be afraid of." ... In 1957, in a speech in Moscow, Mao said he was willing to lose 300 million people—half of China's population.... It was not until the Great Leap Forward, when millions of Chinese began dying during the famine, that I became fully aware of how much Mao resembled the ruthless emperors he so admired. Mao knew that people were dying by the millions. He did not care....

Mao harbored grudges, and when he convinced himself that an underling's loyalty had waned...he could cast an old revolutionary aside without a second thought....

His life depended upon the admiration of others. He craved affection and acclaim. As his disgrace within the party grew, so did his hunger for approval. Lin Biao's campaign to study the thoughts of Mao was one way to feed this craving. His women were another....

Asceticism was the watchword of the Cultural Revolution, but the more ascetic and moralistic the party's preachings, the further the Chairman himself descended into hedonism. He was waited on constantly by a harem of young girls. It was at this time, the height of the Cultural Revolution, that Mao was sometimes in bed with three, four, or even five women simultaneously....

Mao's Great Leap Forward had resulted in the worst famine in human history. We know today that at least 25 or 30 million people died. His Cultural Revolution had plunged the country into chaos, destroying lives, families, friendships, the whole fabric of Chinese society.

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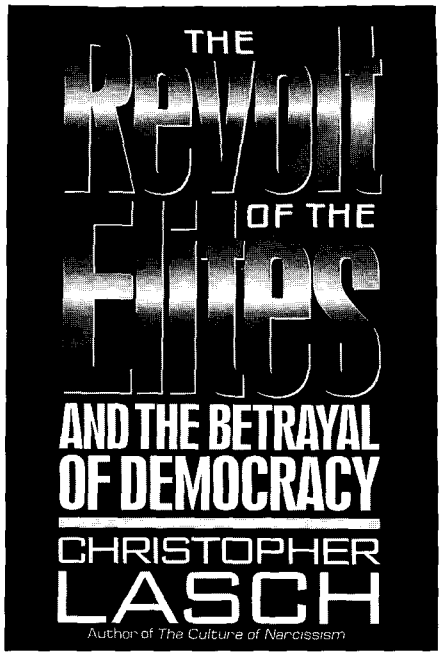
MR. INDEPENDENT

By Martin Morse Wooster

The Revolt of the Elites and the Betrayal of Democracy
By Christopher Lasch
(Norton: New York) 246 pages, $22



The late Christopher Lasch, for most of his life a historian at the University of Rochester, thought himself a man of the Left. But as he aged, he developed a strong traditionalist streak. In the end, he became a man who, with his stalwart defense of traditional values and his distrust of capitalism, was far closer philosophically to some cultural conservatives than he was to most of his fellow leftists.

The Revolt of the Elites, Lasch's last book, is a collection of essays, not a full-length treatise. Moreover, many of the essays are extended book reviews, and some are on such technical subjects as the ideas of nineteenth-century education reformer Horace Mann. Nonetheless, Lasch's lucid prose and fierce independence ensure that his book is worth reading.

Lasch called himself a "populist," and his political philosophy was based on a belief that the primary goal of politics should be to help ordinary people lead better lives. He had little use for a view of politics that suggested that people live just to acquire more income or to climb the status ladder.

In Lasch's view, the wealthiest 20 percent of American society was trying to secede from the masses. These elites were not like traditional aristocrats, who, though wealthy, were rooted by tradition and heritage to a particular place. Nor did they resemble the heroic entrepreneurs of the nineteenth century, who accumulated capital but felt it appropriate to share the wealth they created through philanthropic enterprises.

Instead, Lasch argued, today's elite use their wealth and skill to build barriers between themselves and the masses. They send their children to private schools, while demanding that the public schools they do not use be integrated. As America declines economically, they move jobs to low-wage areas overseas. They sneer at people who work hard making things, while they sit in front of computers all day and spend their "leisure" hours engaging in exercise in order to appear perpetually youthful. "In effect, they have removed themselves from the common life," Lasch wrote. "Many of them have ceased to think of themselves as Americans in any important sense, implicated in America's destiny for better or worse."

This analysis is partially true. Certainly it is wrong to put down people just because their jobs involve a great deal of strenuous labor. An excellent plumber or tailor probably does more good for our country than a typical "symbolic analyst at a university." But the people who are withdrawing from government-run institutions largely do so not because of snootiness but because private alternatives are cheaper or better. Faxes and electronic mail are far less expensive and faster than the Postal Service. The tens of thousands of low- and middle-income parents who choose to educate their children at home or send them to Catholic schools do so not because they wish to insulate themselves from the plebeians, but because they see public schools as immoral and corrupt.

Because Lasch aimed to help average people improve themselves, he disdained the academic airiness of most contemporary leftists. He had little use for political correctness, and in one essay denounces academic radicals as people who "are more interested in the defense of their professional privileges against criticism from outside" than they are in teaching students the skills they need to succeed in life.

Nor was Lasch an ally of those leftists who saw themselves as helpless victims of fate, heritage, or class. His populism prescribed self-reliance and discouraged dependence on government or corporate protectors. The reason Martin Luther King was a successful social reformer, Lasch argued, was that he "refused to claim a privileged moral position for victims of oppression" and that he praised "the petty bourgeois virtues: hard work, sobriety, self-improvement." In another essay, Lasch critiqued the self-esteem movement, seeing it as yet another reason why "public policies based on a therapeutic model of the state have failed over and over again."

Some of *The Revolt of the Elites* is dated, and some of it needs expansion. One wishes, for example, that Lasch had explained at greater length exactly how his proposed populist society would differ from the existing order. But nonetheless, *The Revolt of the Elites* contains a great many interesting and important insights, and is written in clear, lucid, and forceful English—a prose style many of Lasch's fellow academicians would do well to emulate.

In addition, both conservatives and liberals should admire Lasch for his independence. Far too many writers on public policy say whatever they feel their editors, patrons, or bosses desire instead of what they truly believe. The result is that there are far too many courtiers and too few people—like Robert Coles, Eugene Genovese, Robert Nisbet, John Lukacs, or Russell Jacoby—who say what is on their minds without regard to whether or not their arguments might offend someone or challenge accepted wisdom. Christopher Lasch was one of the few truly independent social critics in America. He will be missed.

Associate Editor Martin Morse Wooster is the author of Angry Classrooms, Vacant Minds *and* The Great Philanthropists and the Problem of 'Donor Intent.'

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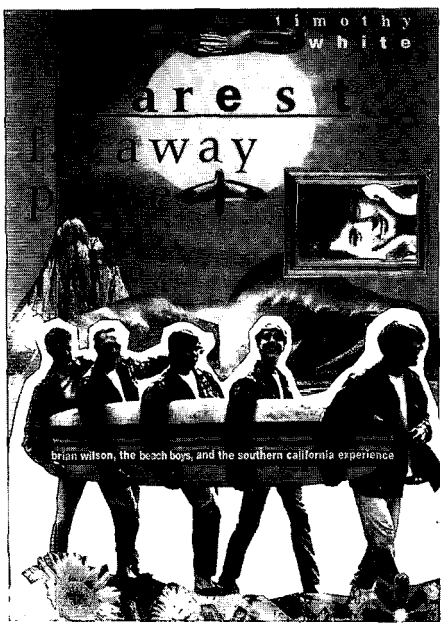

ENDLESS SUMMER

By Brian Doherty

The Nearest Faraway Place: Brian Wilson, The Beach Boys, and the Southern California Experience
By Timothy White
(New York, Henry Holt) 416 pages, $25

The ambitions of this book, like all three of its subtitular subjects, overshoot its achievement. The effects of this are not as dire for the book, however, as they proved to be for Brian Wilson, the tortured-genius founder of the Beach Boys, or for Southern California, which sometimes now seems to be sinking beneath the weight of its own dream.

Author Timothy White has many stories to tell. First is the story of two families, the Wilsons and the Stholes, what brought them to America, and some of what happened to them here. These compressed histories exemplify the strange epic of the American Experience.

White also tells the story of Southern California, mostly through the various enthusiasms in popular culture that the area incubated: aviation, surfing, hot rodding, car detailing, the hula hoop, the electric guitar, and a fantasy of joyous youthful living.

Third, and primarily, this book is the story of a rock band. The Beach Boys have become a fixture on the state fair nostalgia circuit: balding, thickening, rehashing a set that they've been dependent on for over 30 years. Yet Brian Wilson is still adored and honored by pop music critics.

White is a long-time music journalist who is now editor of *Billboard,* the popular music industry's leading trade journal, but he never captures the brilliance of the Beach Boys' music. Like most pop music writers he is more comfortable writing about lyrics than music. This is a fatal shortcoming in covering the Beach Boys, whose power lies in the sonic glory of their voices and arrangement. White goes on for pages about the Beach Boys' masterpiece, the 1966 LP *Pet Sounds,* mostly emphasizing the glum romantic disturbance that typifies the lyrics, but he fails to get across what a crushing, maddeningly beautiful musical work the album is.

The torture and loss in Brian Wilson's life has many more levels than White wants to discuss; he glosses over the personal degradation, drug abuse, crazed indulgence, and unproductiveness that marked Wilson's life after he failed to finish his planned magnum opus *Smile* in 1967. (The Beach Boys' biggest hit, and one of their most stunning pieces of music, *Good Vibrations,* was salvaged from it, however.)

But though White's specifics aren't grand enough for his frame, he could hardly have chosen a more appropriate pop cultural prism than the Beach Boys to view Southern California history through. Some of the ironies are so obvious White doesn't have to belabor them. Ads from the Sunkist company helped sell Wilson's grandparents on the Southern California dream, summoning them across the country from Hutchinson, Kansas. Two generations later, songs performed by the Wilson brothers would be used by the same company to sell others on the same illusion.

The Beach Boys' sad lives embodied many of the strange spiritual and psychological fads synonymous with Southern California. The various obsessions pursued by the Boys included Transcendental Meditation and the Maharishi, John Rogers, Charlie Manson, total-control psychotherapy, numerous lawsuits, and debilitating drug abuse. The James Watt controversy over the Beach Boys playing the Washington Memorial in 1983 was strange in that both Watt and his opponents were right: The Boys are emblematic of loathsome and horrid influences, and they are also America's Band.

Brian Doherty is an assistant editor of Reason *magazine and runs Cherry Smash Records, an independent record label.*

off The Shelf

A REGULAR REVIEW OF CLASSIC, OVER-LOOKED, NEWLY RELEVANT OR OTHERWISE DESERVING OLDER BOOKS

THE FUGITIVE

Madison Jones

Donald Davidson's *Regionalism and Nationalism in the United States: The Attack on Leviathan* was first published 57 years ago, to small notice and less applause. Despite two subsequent editions and recent signs of awakening interest among some notables, the book remains little known. The same is true of its author, whose distinction as political thinker, poet, historian, and teacher fairly cries out for just recognition.

Early in his career as a teacher at Vanderbilt University, Davidson was a principal participant in that remarkable group that came to be known as the Fugitive Poets, which included also John Crowe Ransom, Allen Tate, and

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Robert Penn Warren. The technical deliberations of these men about poetry led them finally to the conclusion that poetry, to be fully itself, required the support of a generally diffused tradition. Observing that tradition must have a society to support it, Davidson later said, the natural next step for the Fugitives was to remember that they were Southerners and that the South still possessed the remnants of a traditional, believing society. This realization was, for key members of the group, the foundation for an enterprise quite removed from their previous, strictly poetic concerns.

This new enterprise was a defense of the South, the need for which, after so long an interlude of good feeling between South and North, broke in upon their poetic deliberations like a stroke from the blue. The loudest attack on the South came in the Dayton "anti-evolution" trial of 1925, with its accompaniment of large-scale mockery directed at Tennessee and sister states, but this was only one instance among many of a kind of public detraction not experienced since Civil War times. Scarcely a feature of Southern life escaped the scorn and ridicule of Northern journalists and opinion-makers, the effect of which was to precipitate an invasion by a host of social scientists, humanitarians, and the like intent on re-creating the South according to modern, scientific prescription.

The reason for the vehemence of this campaign became a good deal clearer in hindsight. Davidson later noted that behind the vituperative particulars one could "detect a more general pattern of condemnation.... It was not only Southern politics that was being held up to ridicule; it was the American political and governmental system in general." The attack was not aimed merely at Southern bigotry and backwardness but at tradition in general—in government, arts, religion, whatever—the unrevealed intent being promotion of a modern collectivist state.

Davidson and friends counterattacked in 1930. First came John Crowe Ransom's brilliant *God Without Thunder*, soon followed by the book that has remained the best-known publication of the Agrarian Movement—*I'll Take My Stand: The South and the Agrarian Tradition*. This book is composed of an introductory statement of shared principles, followed by essays by 12 Southerners. The essays, though quite various, "all tend to support a Southern way of life against what may be called the American or prevailing way." The terms Agrarian versus Industrial grew up at this time to represent the distinction between the two ways of living. Some participants later came to question this choice of terms, doubting that they best expressed the essence of what was here being defended:

...A POWERFUL BOOK ABOUT GUARANTEEING VARIOUS REGIONS THE AUTONOMY TO LIMIT THE CENTRALIZING POWER OF THE NATIONAL STATE

in Davidson's words, "the cause of civilized society...against the new barbarism of science and technology controlled and directed by the modern power state."

The appearance of *I'll Take My Stand* was occasion for jeers and condemnation from many Southern as well as Northern voices, which declared the backward-looking folly of these men who would return the South to horse-and-buggy days. Nevertheless the Agrarians' ideas were launched and taken seriously in many quarters. In that these ideas never found expression in a real political agenda it is probably inaccurate to denominate their consequences as a "movement." But a good many minds were moved. Over the following decade and more, a significant number of books, essays, poems, and public colloquia were generated from precisely these ideas, and not in the South only. The New York editor Seward Collins, for instance, founded *The American Review* to serve as an organ for the Southern Agrarians and other traditionalist groups advocating the relative autonomy of various American regions over the centralizing power of the metropolis.

Eight years after the appearance of *I'll Take My Stand*, Donald Davidson published *The Attack on Leviathan*. It is a powerful book composed of 17 essays that Davidson wrote over the decade or so preceding its publication, each essay dealing with some important aspect of his overall theme: the organic necessity of recognizing and guaranteeing to various regions autonomy sufficient to limit the centralizing power of the national state, the Leviathan of the book's title. As the late Russell Kirk observed, national centralism is the danger against which Tocqueville warned us, the democratic despotism that reduces men to social atoms.

Among the more eloquent chapters is that one dealing with interpretations of American history. Here, representative historians of the economic determinist school—the influential Charles A. Beard in particular—for whom "American history is simply a trans-Atlantic phase of a general and irresistible social economic process" are contrasted with historian Frederick Jackson Turner, whose view "assumes the continuity of multiple traditions within one general tradition; it looks to the land and the people as forming, within nature, a stable, if not permanent, historical factor, leading to a more or less permanent diversity." Equally eloquent are chapters treating education in its relationship to region, and detailing regional differences of character, history, and environment. And certainly those chapters on literature and the arts must not be omitted from special mention, for Davidson was, first of all, a literary man, a poet, and for all his learning and intellectual rigor he saw the world with a poet's eye, which is to say in its wholeness. There is a relationship between the poet and the prophet, and this could partly explain why Davidson's 57-year-old book speaks to us in a voice that sounds strikingly contemporary.

Madison Jones is the author of A Cry of Absence, A Buried Land, *and other novels.*

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Authors

LITERARY LIVES BY FLORENCE KING

Dorothy Parker, Uncompassionate Liberal

The Dorothy Parker revival is putting liberals in a bind. Not that she wasn't one of them. She marched for Sacco and Vanzetti, had a 1,000-page file at the FBI, and named Martin Luther King in her will. Politically she was flawless. What disturbs the sensitivity crowd is her rule of tongue: If you can't say something nasty, don't say anything at all.

This clearly was on the minds of the participants in a recent television documentary. An assortment of feminists and women-in-film types, they gave off the perky tension of people trying not to mention rope in the hangman's house.

No one quoted any of Parker's blood-drawing ripostes. Instead they called her "piquant" and even "elfin." This strange eau de Roget saturated the atmosphere until they discussed her suicide attempts. Only then did they relax and revert to standard Liberalese. As the word count for "vulnerable" mounted, it was obvious they preferred victims to torturers.

Mrs. Parker and the Vicious Circle also tamps her down. Although the movie contains many of her best lines, she seems to be beset by an invisible Nineties image counselor who keeps urging her to show her soft side. A piquant elf will no longer do; she must be a depressed sprite, a lovesick imp, a weary pixy with attitude. The only vigorous scenes involve sex and suicide; the rest seem to have been filmed on the sun porch of a Swiss sanitarium where the nurses don't let patients upset each other.

The flattening of Dorothy Parker was inevitable because liberals run the Deconstruction Company. She reminds them of what Bob Dole would be like if he ever really let loose. She reminds them of the sound they dread: the gasp that ripples over a campus audience when a speaker violates the canon of political correctness. Most of all, despite her leftist credentials she reminds them of the lost joys of social hierarchy.

Wit is not a democratic form. Its invariable modifier, rapier, was an aristocrat's weapon. The last witty civilizations were the last bastions of aristocracy, 18th-century France and England, in whose conversational salons Versailles courtiers and Whig peeresses traded bons mots and double-entendres in a race to insensitivity.

Parker-era liberals identified with these merciless patricians, as we see in her own definition of wit: "the humor of the indifferent." To see how far she carried this, take the morning she woke up and found husband Alan Campbell dead in bed beside her. After the undertaker and police had left, a hovering neighbor aching to do good asked, "Is there anything I can do?"

"Yes, get me another husband."

"Dottie, that's a terrible thing to say!"

"All right, get me a ham and cheese on rye."

This is now called being "in denial," but that only begs the question of why there is nothing in *The Prince of Tides* to match it.

Our need to get rid of the tandem threat of wit and hierarchy drives American politics. Currently we are passing it around like a hot potato. Liberals define wit as mean-spiritedness and attribute it to conservatives, who insure their populist bona fides by calling liberals elitists; liberals must then profess their egalitarianism by calling for more compassion, thereby inviting more charges of elitism from conservatives whom they will then call mean-spirited. This has brought us to a nadir of plebeianism in which nobody is witty, nobody is classy, and nobody lets Dorothy Parker be Dorothy Parker.

> BAD WRITING IS NOW ON THE LEFT WITH ALL THE OTHER SLOPPINESS, BUT IT WAS THE OPPOSITE IN PARKER'S DAY.

Least of all the people who created the I Am a Humorless Feminist tee shirt. If, like the suffragettes of Parker's day, feminists had concentrated solely on women and ignored other dispossessed groups, they could have helped women develop the healthy selfishness that underlies the merry outlook. But in their zeal to stroke every minority under the sun they created such a chaos of caring that feminism merely became liberalism for women. As such it declared war on wit, as in this statement from a book by Emily Toth: "We would like to think that feminism will help women develop a different sense of humor, one that is warm, loving, egalitarian, compassionate."

That's like recommending calm orgasms but feminists don't see it that way. They can excuse the woman who set fire to her sleeping husband because it didn't offend anyone, but Parker makes them nervous. Her retort to an importunate male—"With the crown of thorns I wear, why should I worry about a little prick like you?"—is not only mean-spirited but rife with Christian imagery and body parts.

Parker also offends many liberals with her classical literary style. "Good writing is counter-revolutionary," decreed Ellen Willis, and she was right. Bad writing is now on the Left with all the other sloppiness, but it was the opposite in Parker's day; her liberals valued the epigram as ours value the focus group.

Big Blonde obeys the rules laid down by Aristotle and Horace about the value of leaving things to the imagination. The best example of Parker's masterly indirection comes when Hazel Morse, having passed out from an overdose, is being revived by her cleaning woman. As she is turned over on her back, her breasts sag sideways and lodge in her armpits. This one brushstroke description says more about sadness than all the tears on television.

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Edited by Martin Morse Wooster

the Digest

Summaries of important new research from the nation's universities, think tanks, and investigative publications

POLITICS

Paying for Government Forever

Gareth G. Cook, "The Pension Time Bomb," in The Washington Monthly *(January/February 1995), 1611 Connecticut Avenue NW, Washington, DC 20009.*

As Republicans in Congress and the statehouses struggle to shrink government, they should realize that the excesses of the past will be paid for by taxpayers for a long time. A clear example is the huge overhanging bill for inflation-adjusted pensions to bureaucrats. Cook, a reporter at *U.S. News and World Report,* predicts that if the cost of public pensions isn't controlled, they "could trigger a financial crisis that will make the S&L crisis look like a Big Wheels pile-up at the local playground."

Last year, the federal government sent $65 billion in pension checks to retired military and civilian employees. Because the federal government never invested enough money to pay for pensions in advance, as private employers must, an enormous "unfunded liability" gap has grown up within the federal pension system. According to the Employee Benefit Research Institute, the federal government currently owes its civilian pension plans $870 billion. The military retirement plan, thanks to a generous early-out-after-20-years provision that ensures the average military person retires by age 44, is in the hole for $627 billion. Altogether, federal retirement programs are currently $1.7 trillion in the red—an amount that would increase the national debt by one-third if the federal government used the accounting system relied on by most corporations.

State and local governments face a similar crisis, thanks to practices such as "spiking," whereby civil servants, by cashing in overtime and unused leave, can inflate their pay during their last three years of service and thus receive a bigger pension. In December 1993, for example, Thomas Tidemanson, the director of public works in Los Angeles County, obtained an annual pension of $190,000 from a $158,000 job. According to the Government Financial Officers Association, state and local unfunded pension liabilities currently total $164 billion. The troubled District of Columbia, for example, currently owes its pension plan $5.5 billion, equivalent to $9,000 for each D.C. resident.

To check pension excesses, Cook calls for ending early retirement payments and delaying payments to civil service employees until age 65 and payments to military personnel until age 55. Cost of living increases should be checked for civil servants whose pensions exceed $50,000 annually. And government, like "prudent private companies," should set aside the full cost of pensions in advance. These reforms will not only avert a financial crisis, but will cut taxes. *Money* magazine reports that if government pensions were reduced to the levels the private sector provides, the average taxpayer's state, local, and federal tax bill would fall by 8 percent.

Global Regionalism

Kenichi Ohmae, "Putting Global Logic First," in Harvard Business Review *(January/February 1995), Soldiers Field, Boston, Massachusetts 02163.*

For most of human history, foreign policy has consisted of the relations between nations. But as the global economy becomes ever more integrated, observes Ohmae, founder of a Japanese political party, regions will become more important than nations.

Part of the reason for the rise of regions is that, worldwide, overburdened and overreaching central governments are devolving authority to lower levels of government. Germany, the United States, Canada, and even France are experimenting with devolving power to state and local jurisdictions. Ohmae sees the nation-state as a "powerful engine of wealth destruction" that punishes successful areas by inefficiently transferring their prosperity to less productive regions. In Japan, for example, 44 of the nation's 47 prefectures receive more in government subsidies than they pay in taxes.

Region-states cut across national boundaries. For example, the entrepreneurs of Hong Kong have built so many factories in China's Shenzhen province that the province's gross national product is $5,695 per person, compared to $317 for Chinese living in other provinces. And Vancouver has far more in common with neighboring Seattle than it does with Quebec or Nova Scotia.

Protectionism causes the economies of region-states to stagnate and become vulnerable to competition. Silicon Valley has spent much of the past decade angling for government subsidies and trade barriers. The result: Modest aid from the government and a host of formidable new competitors, including Silicon Islands in Japan and Taiwan and a Silicon Peninsula in Korea. Hollywood, by contrast, welcomed Australian and Japanese investors, ensuring not only $10 billion of new capital, but also "$10 billion less for Japan or anyone else to set up its own Hollywood."

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The world's leaders, Ohmae argues, should not try to resist the growth of region-states through protectionist schemes. Instead, astute politicians should realize that devolution is a global trend and adapt their principles to a changing planet. "No more than Canute's soldiers," he argues, "can we oppose the tides of the borderless world's ebb and flow of economic activity."

ECONOMICS

Caution Lights for Regulators from Cable TV History

Thomas W. Hazlett, "Station Brakes," in Reason *(February 1995), 3415 South Sepulveda Boulevard #400, Los Angeles, California 90034.*

As the "information superhighway" continues to evolve, government regulators at the Federal Communications Commission are erecting high barriers to protect "information have-nots." But Hazlett, director of telecommunications policy at the University of California, Davis, observes that this sort of behavior is not new. Thirty-five years ago, the FCC imposed similar barriers on cable television, delaying its introduction for a generation. "If the regulatory policies crafted between 1959 and 1972 had continued," Hazlett argues, many of the programs Americans enjoy on cable television would never have had a chance to exist.

In 1948, the FCC froze the granting of new television licenses for four years. During this freeze, the first cable systems were created to supply regions not served by local television stations. At first, the FCC refused to regulate these systems, since they did not use the broadcast spectrum.

In the *Carter Mountain* decision of 1962, however, the FCC declared that cable networks threatened the ability of ultra-high frequency (UHF) broadcast stations to carry "public interest" broadcasting like news, public affairs, and children's programming, and that cable should thus be allowed to operate only in areas where it would not compete with UHF—thus excluding cable from most of the nation for nearly 20 years. Gradual deregulations during the Nixon and Carter administrations eventually allowed national cable networks a foothold (Home Box Office was created in 1975, WTBS in 1976). With the passage of the Cable Communications Policy Act in 1984, which "preempted local regulation of cable," Congress ensured that cable networks would flourish. And far from being destructive competitors they actually enhanced the profitability of UHF stations because of the clear signals they carried far afield, and thus indirectly aided the formation of Fox and other over-the-air networks.

Given the FCC's history of stifling innovation, Hazlett suggests that bureaucrats avoid imposing regulatory speed limits on the information superhighway. The "cable deregulation of the 1970s," Hazlett concludes, "showed that making information cheap by prying communications markets open was the one way government could in reality advance First Amendment values."

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Computer Plus Business Doesn't Equal Boom

Stephen D. Oliner and Daniel E. Sichel, "Computers and Output Growth Revisited: How Big is the Puzzle?" in Brookings Papers on Economic Activity *(No. 2, 1994), 1775 Massachusetts Avenue NW, Washington, DC 20036.*

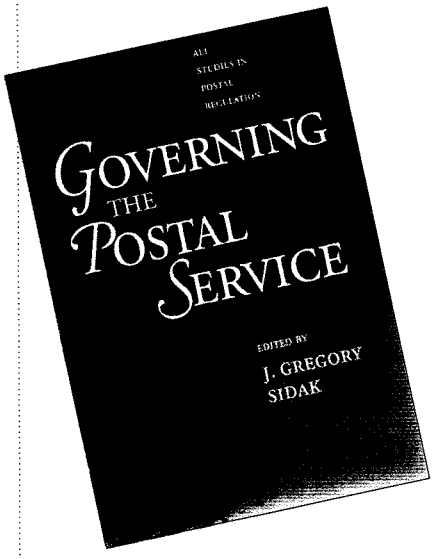
Computers are ubiquitous in offices these days, but they may not make businesses more productive. As Nobel Laureate economist Robert H. Solow once observed, "You can see the computer age everywhere but in the productivity statistics."

Oliner, an economist with the Federal Reserve Board, and Sichel, a Brookings Institution fellow, agree with Solow. "Computers," they write, "probably have not caused whatever pickup in aggregate productivity growth has occurred in recent years."

Between 1970 and 1992, the authors calculate, the productivity of American businesses increased by 2.27 percent each year. They estimate that 0.21 percent of this annual increase comes from computer equipment investment, 0.88 percent from other investments, 0.79 percent from more productive labor, and 0.42 percent from advances that can't be traced to one particular factor.

It's possible that computers may in the future boost productivity in a process that economist Paul David compares to the introduction of the electric motor. Though most of the technical advances needed to make efficient electric motors occurred between 1856 and 1880, it wasn't until 1919 that over half the power in American factories came from electric motors, resulting in a productivity surge during the 1920s. According to economists Lawrence Katz and Alan Kreuger, 49 percent of American workers used computers in 1993. At this level computers may at last bring a productivity boost comparable to that which resulted when the electric motor became commonplace.

But whatever the next decade may hold, Oliner and Sichel argue "there is little evidence to date of a computer-related surge in aggregate productivity."



Creating a Postal Service That Works

J. Gregory Sidak, ed. Governing the Postal Service. *AEI Press, 1150 17th Street NW, Washington, DC 20036. 177 p. $39.95.*

In March 1796, Thomas Jefferson predicted, there "will be a source of eternal scramble among the members [of Con-

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gress over] who can get the most money wasted in their states."

Two centuries later, Jefferson's prediction has proven true. The post office has become a huge organization: 38 percent of all the world's letters originate in America, and the agency, with over 700,000 workers, has annual revenues of over $50 billion, which would make it one of the largest businesses in America if it were private. The economists and lawyers who contribute to this volume provide helpful suggestions as to how the Postal Service can become more efficient and productive.

William Ty Mayton, a professor at Emory University's Law School, shows that the notion that postage has to be a "natural monopoly controlled by government is specious." The Constitution does not say that mail delivery has to be a government function; not until 1792 did Congress decide this. As our country grew, entrepreneurs offered "express mail" services that ensured faster delivery than the post office could provide. When the Post Office convinced Congress to outlaw private transportation firms from delivering mail, messengers from these firms simply bought tickets on steamboats and railroads and carried mail, a practice consistently upheld by the courts. These messenger companies thrived; by the 1840s, one such messenger firm, Wells and Company, offered to deliver any letter anywhere in the nation for 5 cents, compared to the Post Office's charge of 18 cents. Not until 1845 did Congress outlaw these efficient competitors by passing the "private express statutes," which gave government a monopoly over first-class mail.

But today the Postal Service, though still retaining its first-class monopoly, is battered by numerous competitors, from Federal Express and the United Parcel Service to facsimile machines and electronic mail. To adapt to these competitors, Northwestern University economist John C. Panzar suggests that the Postal Service be viewed as a "network industry," similar to telecommunications, electric power, or natural gas distribution. He calls for the Postal Service to be "unbundled" in a manner similar to the way that competitive long-distance telephone service was separated from local telephone monopolies. In Panzar's system, anyone who delivers pre-sorted mail from one city to another would receive a discount equal to what the Postal Service would have received for such delivery. Such deregulation would encourage competition, since prospective competitors would not pay the huge "sunk costs" (sorting facilities and post offices) needed to fully compete with the Postal Service nationally, in much the same way that MCI and Sprint don't have to pay the billions that the Bell System spent wiring millions of American homes for telephones.

Michael A. Crew, a Rutgers University economist, and Paul R. Kleindorfer, a professor at the University of Pennsylvania's Wharton School, call for giving the Postal Service new freedom to set rates and establish classes of mail that do not currently exist (such as a "business class" that is less expensive than first class and faster than third class). In return, those classes of mail would have to be open to competition from private firms. Private express mail companies might be allowed to use postal facilities themselves. Crew and Kleindorfer suggest that deregulation would provide "an incentive to promote cost economy and to develop new services."

SOCIETY

Christians Against School Prayer

Joe Loconte, "Lead Us Not Into Temptation," in Policy Review *(Winter 1995), Heritage Foundation, 214 Massachusetts Avenue NE, Washington, DC 20002.*

One of the reforms proposed by House Speaker Newt Gingrich is a constitutional amendment allowing prayer in the public schools. But the opposition to this amendment, notes *Policy Review* deputy editor Loconte, isn't limited solely to secular groups. It also includes many evangelical Christians.

The increasingly pluralistic nature of American life, Loconte argues, probably means most school prayers would be bland, committee-written banalities. It is far from certain that such generic prayer would provide the inspiration the religiously faithful seek. As noted evangelical Os Guinness writes in *The American Hour,* "a lowest-common-denominator deity is too vague to be useful, too broad to be anything but misleading."

Public school prayer, Loconte suggests, would also result in the "injection of the state in matters of faith." The Southern Baptist Convention, for example, opposes public school prayer out of fear that this might result in increased government control of religion. Christians believe that faith comes to people whose consciences freely seek the eternal wisdom of Jesus Christ. Is God's cause best served by a prayer that students, because of compulsory-attendance laws, are forced to listen to?

Suppose that daily school prayer rotated between faiths. What is to prevent prayers to Mother Earth? Or to the feminist goddess Sophia? As University of Chicago law school professor Michael McConnell notes, such a rotating prayer "sends the message to children that one prayer is as good as another," and thus promotes the moral and cultural relativism prayer advocates abhor.

Instead of supporting mandatory school prayer, Loconte suggests that religious conservatives should work to ensure that history textbooks fairly present America's religious heritage. They should also support enforcement of the Equal Access Act of 1984, which gives religious clubs the same rights to public school facilities that secular organizations enjoy. More balanced textbooks and an end to discrimination against religious groups, Loconte believes, will do more good than official meditation. "Vacuous prayers can hardly undo prejudices against faith," he writes, "nor strengthen the already faithful."

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The Economic Benefits of Imprisonment

Anne Morrison Piehl and John J. DiIulio, Jr., "'Does Prison Pay?' Revisited," in The Brookings Review *(Winter 1995), 1775 Massachusetts Avenue NW, Washington, DC 20036.*

As long as prisons have existed, people have argued about the costs to society of keeping criminals locked up versus setting them free. Piehl, who teaches at Harvard's Kennedy School, and DiIulio, a Princeton political scientist, suggest that about three-quarters of the time, the taxpayers save money by keeping crooks in jail, but that "the public and its purse could benefit if 10–25 percent of prisoners were under some other form of correctional supervision or released from custody altogether."

Sending people to jail, the authors say, provides four kinds of "social benefits": retribution, deterrence, rehabilitation, and incapacitation. It is possible to produce reasonable estimates of the value of one of these benefits, incapacitation. (As the American Enterprise Institute's Ben Wattenberg observes, one thing we know for sure is that "a thug in jail can't shoot your sister.")

Putting violent criminals behind bars, the authors say, is cost-effective for two reasons. First, criminals who earn prison sentences commit a lot of crimes before they end up getting nailed. Surveys the authors conducted in 1991 and 1993 found that prisoners committed about 12 crimes, excluding drug crimes, apart from the one they were sentenced for. These crimes were costly in terms of medical expenses, psychological trauma, and injuries that kept victims from working. A 1993 survey reported that a typical murder imposed $2.4 million in direct economic costs on society, a rape $60,000, an arson $50,000, and an assault $25,000. Applying comparable estimates, the authors calculate that the average New Jersey criminal wreaks havoc costing $1.6 million a year, substantially more than the $25,000 annual price tag for incarcerating someone.

About 25 percent of prisoners surveyed, however, committed criminal damage of less than $19,509, and 10 percent committed crimes worth less than $1,610. This group included many drug criminals. Most of the time, Piehl and DiIulio contend, it's worth it to send criminals to jail. But prison "does not pay for all convicted drug felons."

Sending Criminals to Their Rooms

Joseph Hoshen, Jim Sennott, and Max Winkler, "Keeping Tabs on Criminals," and Dan Miller, "Legal Barriers to Electronic Prisons," in IEEE Spectrum *(February 1995), Institute of Electrical and Electronics Engineers, 325 East 47th Street, New York, New York 10017.*

With the costs of crime and incarceration both high, some reformers are looking for new ways to keep criminals out of circulation. One method is in-home electronic monitoring, whereby a criminal (usually on parole) serves out his sentence under house arrest, wearing an electronic ankle bracelet that must periodically be inserted into a modem that notifies a central receiving station the prisoner is at home.

According to the National Institute of Justice, in 1994 67,000 offenders used electronic monitoring systems. But according to Hoshen, an AT&T Bell Laboratories engineer, Sennott, a Bradley University professor of electrical and electronic engineering, and Winkler, a Colorado parole officer, advances in technology could make these electronic monitors more reliable and effective.

Current electronic monitors send off an alarm if an offender leaves his home but don't report the criminal's location. In September 1994, Christopher Freed, a convicted seven-time rapist on parole fled his home while wearing an electronic ankle bracelet. It took 10 days for police to track him down.

New technology might ensure that people like Freed are caught faster. Westinghouse is currently planning a "wide-area monitoring system" in which ankle bracelets would emit signals that are received by at least three antennae located throughout a city, enabling parole officers to monitor an offender over a substantial range by using triangulation. These antennae could also be used to protect potential crime victims. Motorola is currently preparing a system to be tested at Arizona State University in 1996 where students will be issued "pager-sized personal alarms" that can instantly notify campus police of a victim's location. In the near future, monitors could record even more information; the Advanced Research Projects Agency is testing a monitor that could record pulse rates and blood pressure, which might indicate if drug offenders are using illicit substances.

But as Miller, a consultant, notes, such advanced monitoring systems might face formidable legal challenges. Currently, monitors only report such things as being away from home during a court-ordered curfew. But the new monitors would record an offender's whereabouts—and, in the near future, some of his activities—24 hours a day, and could thus violate the offender's right to privacy. In addition, if the monitors included "some sort of remotely activated restraint" such as a very loud alarm, using them could violate Eighth Amendment prohibitions against cruel and unusual punishment and Fifth Amendment protections for due process. Miller suggests that if electronic monitors were forced on a prisoner without his consent, the decision "could open the floodgates to constitutional challenges by offenders and by civil libertarians."

Crossing the Border

Thomas J. Espenshade, "Does the Threat of Border Apprehension Deter Undocumented U.S. Immigration?" in Population and Development Review *(December 1994), Population Council, One Dag Hammarskjold Plaza, New York, New York 10017.*

One beneficiary of America's debate over illegal immigration has been the United States Border Patrol, a branch of the Immigration and Naturalization Service (INS). The Border Patrol's budget, measured in constant dollars, has increased 75 percent between 1987 and 1993. Nearly 4,000 agents now patrol the U.S.-Mexico frontier to prevent illegal immigration, and President Clinton has called for adding 1,000 more officers over the next two years. But does all this manpower actually block illegal immigrants from entering the United States?

Over the past two decades, Princeton sociologist Espenshade reports, illegal immigrants have had a 21 to 40 percent chance of being caught by Border Patrol agents. The U.S.-Mexico border was most porous in 1980, when some Border Patrol officers were redeployed to deal with the Mariel boatlift from Cuba, and in 1988, when some agents were assigned to intercept drug

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dealers and to brief employers on the new penalties for hiring illegal aliens. Most illegal immigrants who are caught are not arrested, but simply deported, where they usually try to enter the United States again.

Once inside the United States, an illegal alien's chance of being caught by the INS's Investigations Unit, Espenshade estimates, is between 1 and 2 percent. In 1993, the INS caught 45,000 illegal aliens out of an estimated 3.4 million.

The INS's deterrence efforts, according to Espenshade, probably do have some effect. Illegal aliens might not know the true odds of evading the Border Patrol and would thus stay away from the United States. This is particularly true for immigrants who live outside the United States and Mexico. For example, the fact that thousands of relatives of Filipinos naturalized as U.S. citizens have patiently waited for years for visas rather than entering illegally indirectly shows the deterrent power of U.S. immigration laws.

"Current INS enforcement practices clearly do not stop all illegal immigration," Espenshade writes, "but they probably discourage some." And just as the government cannot afford the massive budgets needed to convict all criminals or prevent all pollution, it may be that the United States cannot afford the large costs in taxes and freedoms that might be necessary to ensure that all illegal immigrants are caught and deported. "Undocumented immigration at roughly present levels," he concludes, "is a price that Americans pay to maintain an open society."

OTHER COUNTRIES

To Live and Die in Eastern Germany

Nicholas Eberstadt, "Demographic Shocks in Eastern Germany, 1989–1994." Paper presented at an American Enterprise Institute conference, December 15, 1994.

As eastern Germany struggles to break free of its Communist legacy, its citizens are adapting to capitalism by having fewer children, marrying later, and dying faster. Eberstadt, a visiting scholar at the American Enterprise Institute, notes that the birth rate in eastern Germany has fallen so dramatically that the region's "adults appear to have come as close to a temporary suspension of childbearing as any large population in the human experience."

According to Germany's Federal Statistical Office, the eastern German birth rate fell from 13.3 per thousand in the first half of 1989 to 4.9 per thousand in the first half of 1994, a 65 percent drop. This drastic decline is unprecedented in a peaceful industrialized society; even during World War II, German and Japanese birth rates only fell by half, a reduction also achieved in Mao's China during the "Great Leap Forward" era (1957–1961). The eastern German birth rate is now less than half that of western Germany.

A small part of this decline, Eberstadt calculates, is due to the aging of the eastern German population, and also to emigration. Abortion also plays a small role, though the eastern German abortion rate declined by 40 percent between 1989 and 1993. Most of the "birth shock," however, is due to decisions by rising numbers of eastern German women not to have babies.

Marriage rates in eastern Germany are also dropping—by 62 percent between 1989 and 1992. (By comparison, Spain's marriage rate fell by 26 percent between 1935 and 1938, at the height of the Spanish civil war.)

Death rates among eastern Germans under age 65 are rapidly rising. Among men ages 25–45, the death rate rose by 30 percent between 1989 and 1991; women in the same age cohort have seen their death rates increase by 20 percent. Death rates among eastern German girls ages 10–14 have risen 70 percent. Deaths due to heart disease, suicide, and cirrhosis are increasing among all ages.

Strangely, these gloomy demographic changes are coming at a time of increasing prosperity for eastern Germany. Thanks to generous subsidies from the West, average wages in the region doubled between 1990 and 1993 and disposable income more than doubled from 1989 to 1993. Though unemployment rates have risen, the economic stresses in eastern Germany are far less severe than the Germans experienced during the hyperinflationary period of the early 1920s, when marriage and birth rates remained stable.

The drastic changes in eastern Germany, Eberstadt suggests, shows that the road from communism to capitalism is a very rugged highway. "The path back from communism is terra incognita," he concludes, and "historical analogies are of only limited utility in describing [the] terrain."

Japan and Its Neighbors

Ivan P. Hall, "Japan's Asia Card," in The National Interest *(Winter 1994–95), 1112 16th Street NW #540, Washington, DC 20036.*

In the past year there has been increasing evidence that many Japanese, dismayed with America's insistence on open markets, have increased their interest in Asian nations. An August 1994 *Asahi Shimbun* poll reports that 60 percent of those surveyed believe Japan should consider the West (America and Europe) and Asia equally important, while 6 percent call for favoring the West and 28 percent support an "Asia First" policy.

Hall, a historian living in Tokyo, observes that this poll, while evidence of "a major shift away from the westward-looking postwar orthodoxy," is not a new trend in Japanese life. Ever since Japan abandoned its insularity after the Meiji Restoration of 1868, the Japanese have periodically veered between the "draconian alternatives" of "Escape from Asia" (datsu-A) and "Joining Europe" (nyu-O). Moreover, the Japanese notion of "Asia" excludes most of the Asian subcontinent. Many Japanese do not consider Indians, Australians, or New Zealanders to be Asians. For most Japanese, "Asia" consists of Korea, China, and Southeast Asia, or roughly the extent of the Japanese Empire in 1942. And while Japanese expressions of interest in Asia (singing contests, student exchanges, television shows about Tibetan burial customs) are largely peaceful, Hall contends that the underlying impulse is "an extension of domestic chauvinism."

It's not clear whether Asian nations are eager to ally themselves with Japan. South Korean resentment against 35 years of Japanese rule continues to surface. The fact that one-third of South Koreans are now Christians is "in part a riposte to Japan," Hall maintains. Meanwhile, Vietnam is trying to increase American eco-

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nomic presence as a way of countering rising Japanese economic influence. In Malaysia and Singapore, Hall believes, the Japanese are forging firmer ties.

Japanese chauvinism, however, ensures that Asians in Japan lead a hard life. Asian students are discriminated against in the Japanese housing market, Asians are routinely blocked from advancement in Japanese businesses, and Japan's Ministry of Education forbids the nation's universities from employing many foreign teachers.

Despite these barriers, Hall warns, Asians and Japanese might well draw closer, particularly if Japanese leaders launch a campaign against American market-opening. He calls on American writers and government leaders to "become more involved with the ideas, visions, hopes, and rhetoric" of east Asia, before the region falls irretrievably under Japanese economic and cultural influences.

SCIENCE AND ENVIRONMENT

Is Warmer Better?

Thomas Gale Moore, "Why Global Warming Would Be Good for You." Paper presented at an American Enterprise Institute conference, February 7, 1995.

Environmentalists express great fear of "global warming"—the possibility that emissions of carbon dioxide and other "greenhouse gases" would cause the Earth's average temperature to rise by up to 5 degrees Fahrenheit. In *World on Fire* (1991), then-Senate Majority Leader George Mitchell warned that warming would result in "meteorological chaos," including massive hurricanes, a devastating drought in India and Africa, and other changes that "would match nuclear war in its potential for devastation." Vice-President Al Gore, in a 1994 speech, said that global warming is "the most serious problem our civilization faces."

Moore, a Hoover Institution senior fellow, suggests these fears are overstated. Moore reports that a significant increase in the Earth's average temperature has actually happened before, and that history suggests humanity "prospered during the warm periods" of the past.

Physical samples and historical records show that the world enjoyed two previous long periods of warming during the historical era: the "Climactic Optimum" between 7000 and 1000 B.C., when the average global temperature was 4 F higher than today, and a medieval warm period between 800 and 1300 A.D. when the global temperature rose by 3 F. And these warm periods did not produce environmental devastation, but instead were eras when civilization advanced significantly.

During the Climactic Optimum, plants began to be domesticated, and humanity began to abandon hunter-gatherer cultures for more sedentary urban life. Cave paintings from the period show that the now-barren Sahara desert teemed with hippopotamuses, elephants, and antelopes. The second warm period also brought dramatic changes. In Europe, the warmth that slowly increased from the ninth century onward ensured that crops would be more reliable, reducing disease caused by nutritional deficiencies and increasing trade and wealth. Population expanded, and skilled artisans began to travel hundreds of miles to pursue their work. Many of the world's great religious edifices date from this era, including such Christian monuments as the cathedral of Chartres (begun 1194), Westminster Abbey (begun 1045) and the abbey at Mont.-St.-Michel (begun 1017), as well as such Buddhist temples as Cambodia's Angkor Wat (c. 1100) and Indonesia's Borobudur (c. 950).

"Global change is inevitable," Moore concludes, and history indicates that an increase in the world's temperature might do more good than harm.

Elephants-for-Profit

Ike Sugg and Urs Kreuter, Elephants and Ivory: Lessons from the Trade Ban. *Environment Unit, Institute of Economic Affairs, 2 Lord North Street, London SW1P 3LB, United Kingdom. 61 p. £7.*

In 1989, the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), imposed a ban on the sale of goods derived from African elephants, including elephant skins and ivory. Today, in all but six countries of the world (Botswana, Malawi, Namibia, South Africa, Zambia, and Zimbabwe) trade in these goods is now illegal—and none of the holdout nations has ever legally exported ivory, for fear of being hit with punitive trade sanctions if they did.

But while the elephant trading ban may have pleased Western conservationists, notes Sugg, fellow, and Kreuter, research associate, of the Competitive Enterprise Institute, there was one small problem—the ban did not actually protect elephants. In many countries, they claim, the ban has imperiled the African elephant.

"Ban proponents," Sugg and Kreuter observe, "claimed that the trade ban would suppress demand for ivory because illicit ivory traders would cease advancing funds to poachers without secure markets to sell the ivory." This argument, however, ignored historical evidence. The Kenyan elephant population, for example, declined 75 percent after elephant hunting was outlawed in the mid-1970s. Likewise, the African black rhino population fell from 50,000 to 2,500 after CITES banned trade in rhino horns in 1975. Though the ivory trade is still below pre-ban levels, the authors report, it is steadily rising, particularly to Taiwan, Singapore, China, Hong Kong, and South Korea. Many of the nations that can still export ivory are countries ravaged by inflation and massive international debts, problems that could be eased by selling the 500 ton stockpile of ivory collected before 1989.

Instead of having governments own elephants, Sugg and Kreuter suggest that control be transferred to communities and individuals. In Zimbabwe, the CAMPFIRE program transfers hunting license fees from the central government to community councils, giving villagers and farmers an economic incentive to protect wildlife, who are a valuable resource. The CAMPFIRE model, the authors suggest, could be expanded; environmental nonprofits could pay African farmers and ranchers to ensure that threatened species on their property are protected.

The best way for species to survive is for ordinary people to benefit from their preservation. Controlled markets, Sugg and Kreuter suggest, will do a better job than increasingly costly trade bans. "Local laws that criminalize the commercialization of wildlife," they contend, actually "decrease the chances that wildlife will survive."

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Opinion Pulse

Edited by Karlyn Bowman and Everett Carll Ladd
Data from the Roper Center for Public Opinion Research

Rethinking the Sixties

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The enterprise of "rethinking the Sixties" continues apace. It actually began in the 1970s, proceeded in fits and starts through the 1980s, and now has been infused with new energy in the mid-1990s.

The results of last November's elections provide the most dramatic example of this vast rethinking. Americans signaled their desire to reverse at least some of the expansion of government's reach—an expansion they had endorsed three decades ago.

The data that follow tell three lesser but no less instructive parts of the larger story of a nation reexamining various ideas and directions that were invented or at least accelerated in the 1960s.

Our first story involves affirmative action. Here, it's not so much a case of the public changing its mind as of the public seeing changed circumstances. As we learn on page 101, large majorities of Americans say that affirmative action programs were needed 30 years ago to help women and racial minorities overcome past discrimination. Now, however, majorities conclude that the society has responded and affirmative action programs are no longer needed. The ideal of treating individuals without regard to race, gender, and other non-merit factors has not yet been realized, the public says, but it has been advanced enough so that the "special treatment" expedient is no longer appropriate.

LARGE MAJORITIES OF AMERICANS SAY THAT AFFIRMATIVE ACTION PROGRAMS WERE NEEDED 30 YEARS AGO TO HELP WOMEN AND RACIAL MINORITIES OVERCOME PAST DISCRIMINATION. NOW, HOWEVER, MAJORITIES CONCLUDE THAT AFFIRMATIVE ACTION PROGRAMS ARE NO LONGER NEEDED.

The 1960s gave rise to two quite different currents involving the status of women. One of them—positing the ideal of full equality for women in various sectors, including the workplace, where equality had emphatically not been obtained—has gained in standing over the last several decades, and now approaches consensual status. The other current, feminism, has not advanced, however, and indeed has sparked substantial opposition, not the least among women. It's likely that the public opinion verdict on Hillary Rodham Clinton (page 107) is a mixture of both currents. The rise in the number rating her unfavorably is in some measure a commentary on feminism.

The third rethinking of the Sixties story involves the elderly. The Sixties celebration of youth culture has passed, and such matters as what to do with the old folks have been rethought. The chart on page 109 illustrates this nicely. Support for the idea of older people sharing a home with their adult children has climbed steadily over the last 20 years.

Our two remaining stories have different focuses. The data on pages 103 and 104 show how baseless the media hype about "white male rage" is. It's not that white males never differ in outlook from the rest of the population. But even in areas like affirmative action, where they are held to be especially aggrieved, the big story is that the group shares the conclusions to which others have come.

An exploration of current thinking on a third political party can be found on pages 105 and 106. Roughly 30 to 40 percent of adult Americans say they are receptive to the idea of a third party. The number can be jacked up 20 points higher if the question is put in the most general terms with no political principles specified. But while those numbers are high, there doesn't seem to be much intensity behind them. Americans aren't demanding a third party.

The big change is that many people have moved away from strong, relatively fixed attachment to any political party. Perhaps half the electorate is now up for grabs at each national election. Third party (or independent) candidates have a shot at this unanchored portion of the electorate even in the absence of dissatisfaction with the major party nominees. Third party candidate preferences are growing, and this tendency is unlikely to be reversed.

—Everett Carll Ladd

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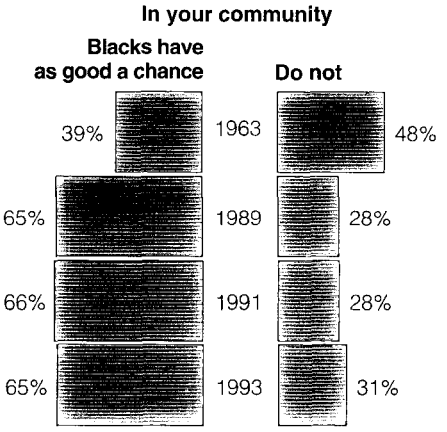
RETHINKING AFFIRMATIVE ACTION

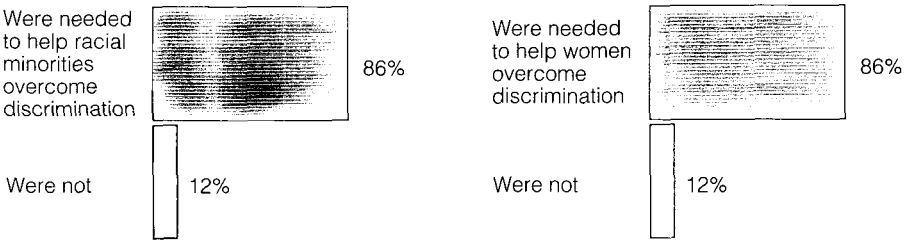
President Clinton and Senator Dole have ordered separate reviews of federal affirmative action programs, and the pollsters have been conducting evaluations of their own. As the Gallup data below show, Americans in the 1960s did not feel blacks in their communities had equal job opportunities. Today, over 6 in 10 believe that equal opportunity exists. Americans say the programs were needed 30 years ago, and there is a strong consensus that they helped. Majorities now feel that they are no longer needed for minorities or women, however.

Question: **In general, do you think blacks have as good a chance as white people in your community to get any kind of job for which they are qualified, or don't you think they have as good a chance?**



Source: Surveys by the Gallup Organization. The August 1993 survey was conducted for CNN and *USA TODAY*.

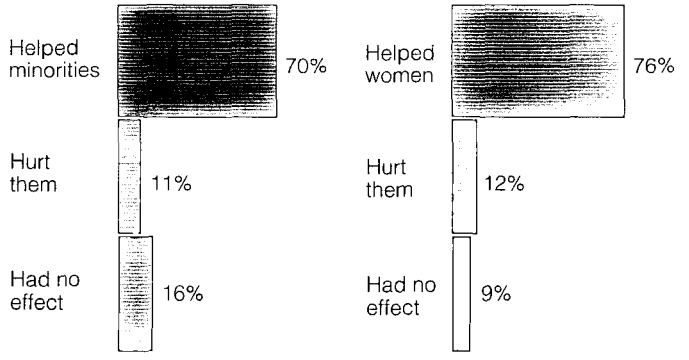
Question: **When affirmative action programs were first adopted almost thirty years ago, do you think they were needed to help (racial minorities/women) overcome discrimination, or were they not needed thirty years ago?**



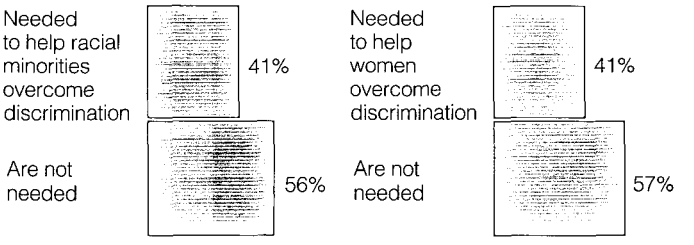
Source: Survey by the Gallup Organization for CNN and *USA TODAY*, February 24–26, 1995.

No Longer Needed

Question: **Overall, do you think affirmative action programs for the past thirty years have helped (racial minorities/women), hurt them, or had no effect one way or the other?**



Question: **Today do you think affirmative action programs are needed to help (racial minorities/women) overcome discrimination, or are they not needed today?**



Source: Survey by the Gallup Organization for CNN and *USA TODAY*, February 24–26, 1995.

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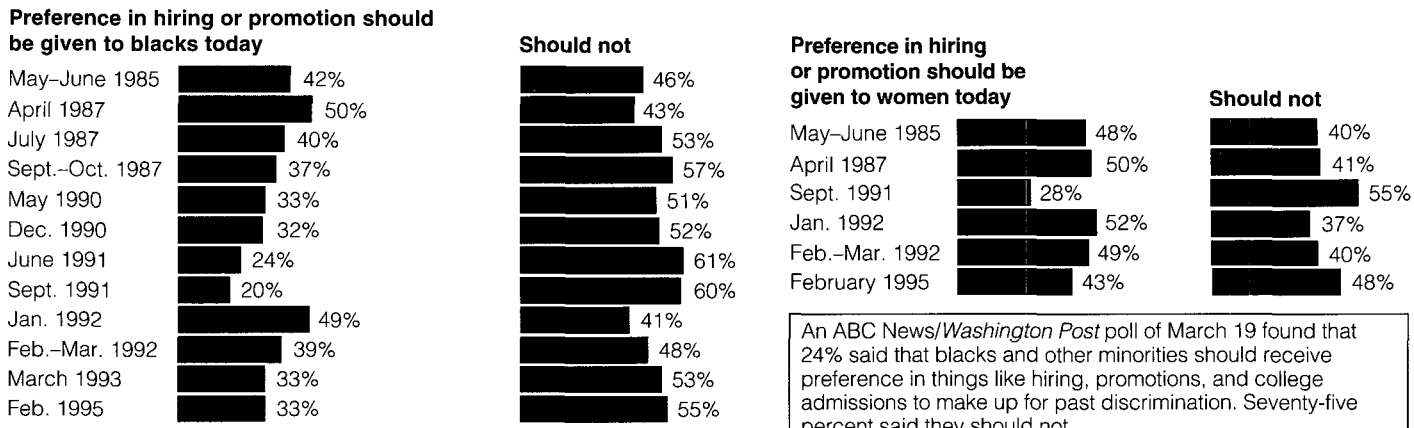
"No" to Preference

In 1978, in the first issue of AEI's Public Opinion, political scientists William Schneider and Seymour Martin Lipset reviewed public opinion on affirmative action. They reported that "every major national study shows that a sizeable majority of Americans are opposed to remedying the effects of past discrimination by giving any special consideration in hiring or school admissions." As the data below show, Americans continue to oppose preferential treatment. Americans strongly support the goal of providing more opportunity; they do not like the way the objective has been pursued.

Question: **Do you believe that where there has been job discrimination against (blacks/women) in the past, preference in hiring or promotion should be given today?**

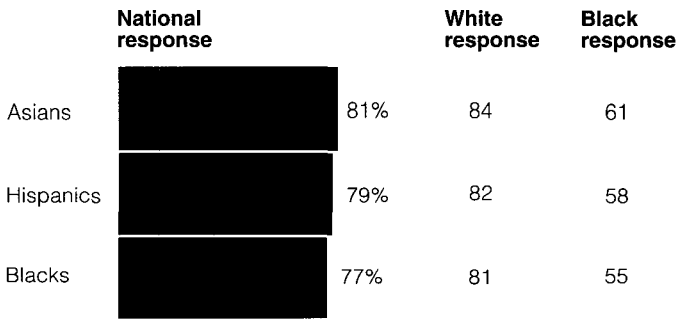


An ABC News/*Washington Post* poll of March 19 found that 24% said that blacks and other minorities should receive preference in things like hiring, promotions, and college admissions to make up for past discrimination. Seventy-five percent said they should not.

Source: Survey by CBS News/*New York Times*, latest that of February 22–25, 1995.

Question: **Please tell me whether you think colleges and universities should or should not give preference in admissions for each of the following groups.**

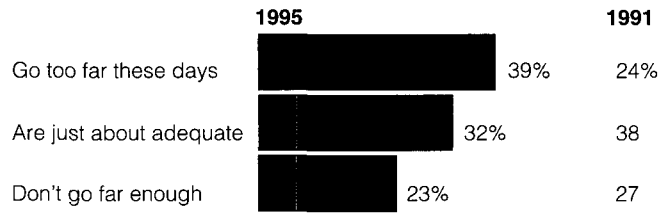
Should not give preference in admissions for



Source: Survey by Princeton Survey Research Associates for *Newsweek*, March 23–24, 1995.

Question: **Do you think...**

Affirmative action programs designed to help minorities get better jobs and education



Source: Survey by *Los Angeles Times*, January 19–22, 1995.

Question: **What's the best thing to do with affirmative action programs giving preference to some minorities leave them as *they are, change them, or do away with them entirely*?**

Best thing to do with affirmative action programs giving preference to some minorities

Source: Survey by ABC News/*Washington Post*, March 19, 1995.

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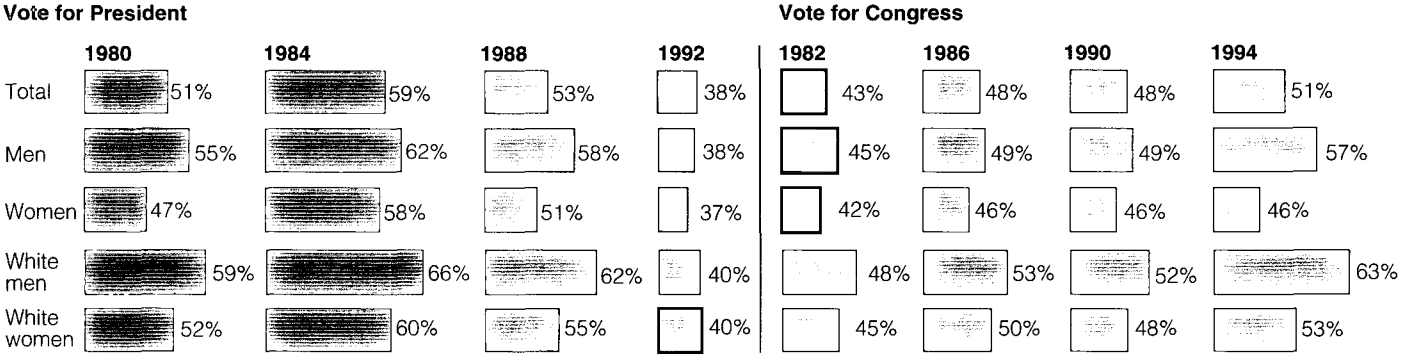
WHITE MALE RAGE?

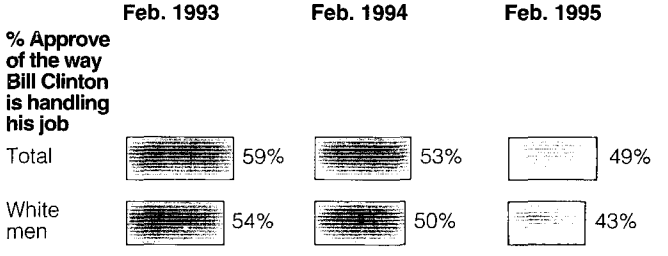
In the 1994 election, white men voted heavily Republican. A number of observers suggested that the country's affirmative action policies partly explained that vote, and the label "white male rage" was invented. But actually, rage is not a word that describes the findings in public opinion. What the data do show is that white men have been moving in the Republican direction for some time. They are less likely than the overall population to approve of the job Bill Clinton is doing, and until recently they have been stronger critics of Congress. They appear just as satisfied as the public with the work they do.

% Republican

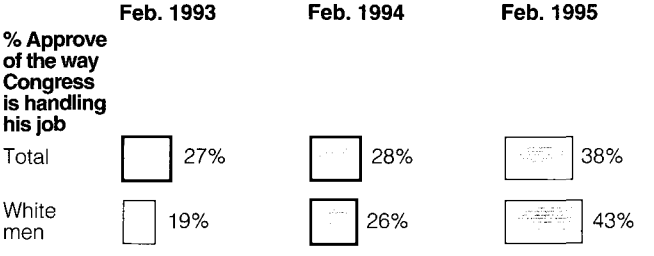


Source: Surveys by CBS News/*New York Times*, latest that of 1990; by Voter Research and Surveys, 1992; Voter News Service, 1994.

Question: **Do you approve or disapprove of the way Bill Clinton is handling his job as president?**

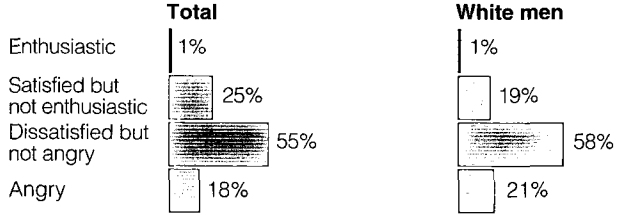


Question: **Do you approve or disapprove of the way Congress is handling its job?**



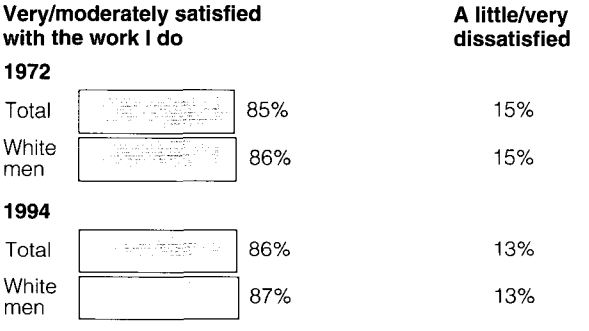
Source: Surveys by the Gallup Organization for CNN and *USA TODAY*, latest that of February 1995.

Question: **Which one best describes how you feel about the way the federal government works?**



Source: Survey by ABC News/*Washington Post*, October 27–31, 1994.

Question: **On the whole, how satisfied are you with the work you do?**



Source: Surveys by the National Opinion Research Center, latest that of February–April 1994.

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WHITE MALE RAGE?

White males are just as likely as the overall population to say that affirmative action programs were needed 30 years ago and that they helped. Like other Americans, they believe that blacks have an equal chance to succeed today. Slightly more white males than the population as a whole say that less qualified black persons very often get jobs or promotions because of affirmative action. White males are more likely to believe the programs have gone too far today, and they believe this more strongly than in the past. They object more vehemently to specific affirmative action programs. Their views on this issue may contribute to their movement in the GOP's direction, but other things are clearly at work.

Question: **When affirmative action programs were first adopted almost thirty years ago, do you think they were needed to help racial minorities overcome discrimination, or were they not needed thirty years ago?**

Were needed

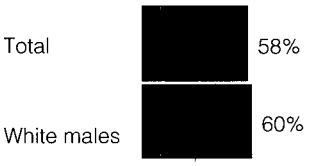
Question: **Overall, do you think affirmative action programs for the past thirty years have helped racial minorities, hurt them, or had no effect?**

Have helped

Source: Survey by the Gallup Organization for CNN and *USA TODAY*, February 24–26, 1995.

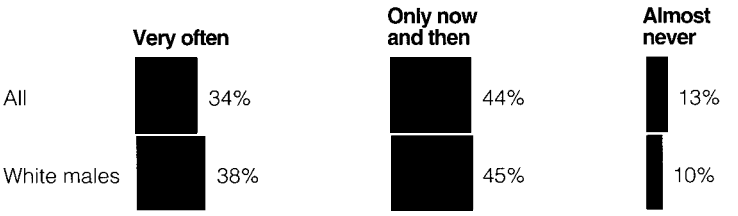
Question: **And how about black Americans—regardless of what they faced in the past, overall, do they have an equal chance to succeed or not?**

Black Americans have an equal chance to succeed today



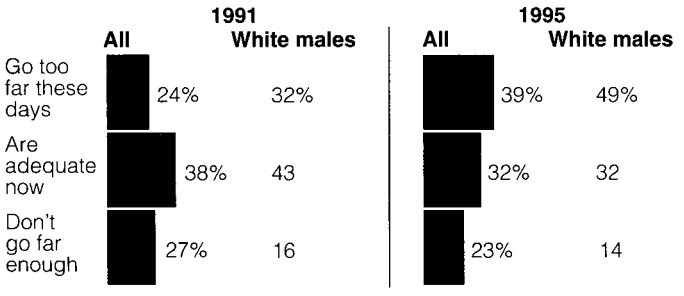
Source: Survey by the Institute for Social Inquiry for *Readers Digest*, University of Connecticut, August 22–29,

Question: **How often does it happen these days that a less qualified black person gets a job or a promotion only because of affirmative action: very often, only now and then, or almost never?**



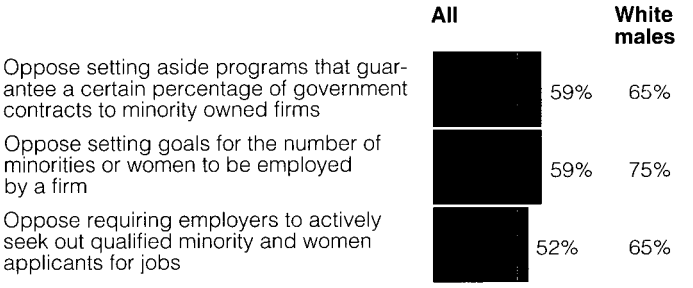
Source: Survey by the Gallup Organization for CNN and *USA TODAY*, December 2–5, 1994.

Question: **Do you think affirmative action programs designed to help minorities get better jobs and education go too far these days, or don't they go far enough or are they just about adequate now?**



Source: Survey by the *Los Angeles Times*, latest that of January 19–22, 1995.

Question: **Here are some specific affirmative action programs. For each one, please tell me if you...?**



Source: Survey by Hart and Teeter Research Companies for NBC News/*Wall Street Journal*, March 4–7, 1995.

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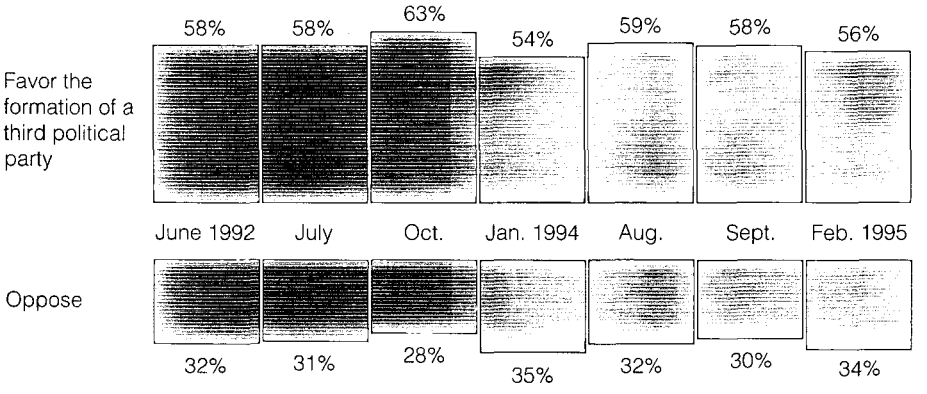
THIRD-PARTY PROSPECTS

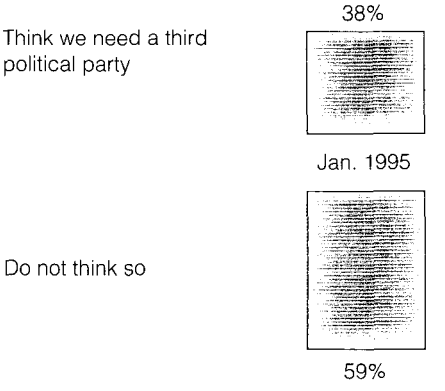
Since the 1980s, majorities or strong pluralities of Americans have supported the creation of a third political party. This appears to be an expression of general political frustration. Support for specific third-party candidates has never matched general support for the idea. For a brief moment after the GOP took control of Congress last November, more Americans said we didn't need a third party than said we needed one. By February, however, the old attitude had reasserted itself. Men, young people, and not surprisingly, those who call themselves independents, are more disposed toward the idea.

Question: **Would you favor or oppose the formation of a third political party that would run candidates for President, Congress, and state offices against the Republican and Democratic candidates?**



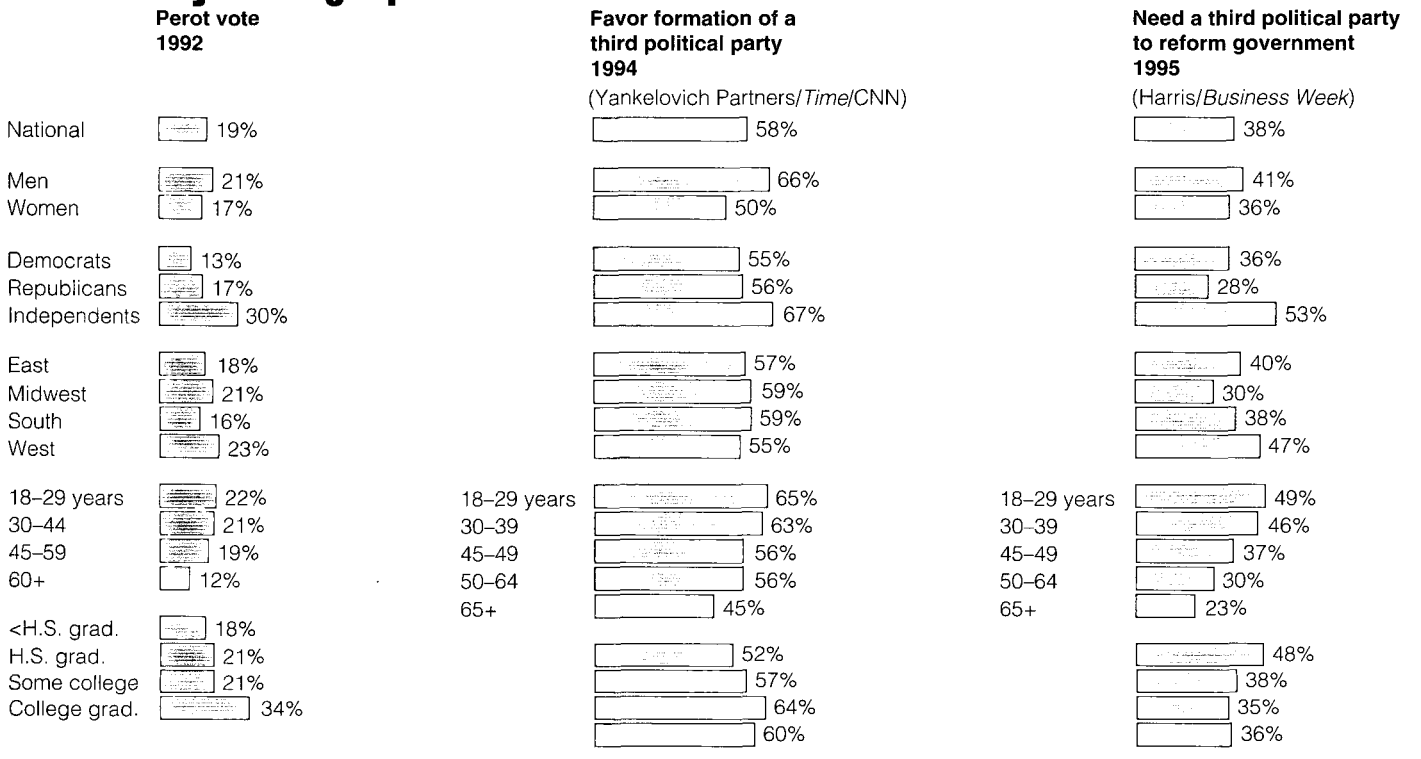
Source: Surveys by Yankelovich Partners, Inc. for *Time* and CNN, latest that of February 28–March 1, 1995.

Question: **Do you think we need a third party to reform government because neither the Democrats nor the Republicans will do it, or not?**



Source: Survey by Louis Harris and Associates for *Business Week*, January 4–8, 1995.

Third-Party Demographics



Source: (For the Perot vote) Voter Research & Surveys, November 3, 1992; Yankelovich Partners for Time and *CNN*, September 1994; Lewis Harris and Associates for *Business Week*, January 1995.

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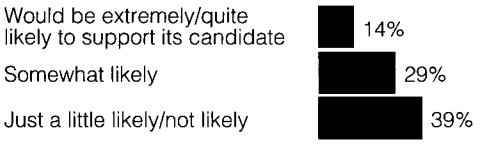
MORE ON THIRD-PARTY PROSPECTS

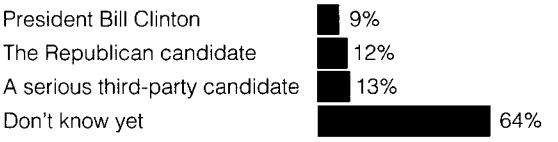
Today about 15 percent of Americans say they would support a third-party candidate for president in 1996. Three individuals whose names have been mentioned have different opinion profiles. Colin Powell is very popular. Ross Perot's ratings declined sharply after his debate with Vice President Gore on NAFTA, but his standing has recovered a bit recently. Like Perot, Jesse Jackson has negative ratings that outweigh his positive ones; he garners less than 10 percent as a independent candidate. Ross Perot and Colin Powell do better. About 60 percent say the two party system has served the country well.

Question: **If there was a significant third political party established for the 1996 presidential election, separate from the Republican and Democratic parties, how likely would you be to support its candidate...?**



Source: Survey by Hart/Teeter Research Companies for NBC News/*Wall Street Journal*, October 14–18, 1994.

Question: **What if there were a serious third-party candidate for President in 1996. Would you probably vote for President Bill Clinton, or for the Republican candidate, or for a serious third-party candidate, or don't you know yet?**



Source: Survey by CBS News/*New York Times*, January 2–3, 1995.

Question: **I'm going to read you the names of several public figures and institutions. I'd like you to rate your feelings towards each one as either very positive, somewhat positive, neutral, somewhat negative, or very negative...**

Colin Powell

Colin Powell is one of the most highly regarded figures in public life. Each time NBC News/*Wall Street Journal* pollsters have asked about him, solid majorities have had positive feelings.

Ross Perot

Ross Perot's ratings on this question have declined sharply since December 1992 when 45% had positive feelings about him, and 33% negative. He's up, though, from his low of 19% positive in the September 1994 poll.

Jesse Jackson

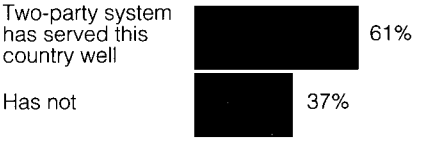
Jesse Jackson's ratings have declined since November 1989 when 45% had positive feelings about him and 29% negative ones.

Source: Surveys by Hart/Teeter Research Companies for NBC News/*Wall Street Journal*, December 10–13, 1994 (Perot), March 4–7, 1995 (Jackson and Powell).

Selected Trial Heats for 1996

			Independents		
	The Republican	Clinton	Perot	Powell	Jackson
December 1994 Gallup/*USA TODAY*/ CNN (vote for)	41%	37%	18%		—
January 1995 NBC/ *WSJ* (almost certain/ very likely to vote for)	40	35	14	19%	8%
February 1995 EPIC-MRA Mitchell (vote for)	**Dole** 41%	35%	14%		5%
March 1995 NBC/ *WSJ* (vote for)	**Dole** 32%	34%		23%	

Question: **For a long time, we have had a two-party system where all Presidents and almost all Congressmen and Governors have been either Republicans or Democrats. Overall, do you think the two-party system has served this country well or not?**



Source: Survey by Louis Harris and Associates, July 17–19, 1992.

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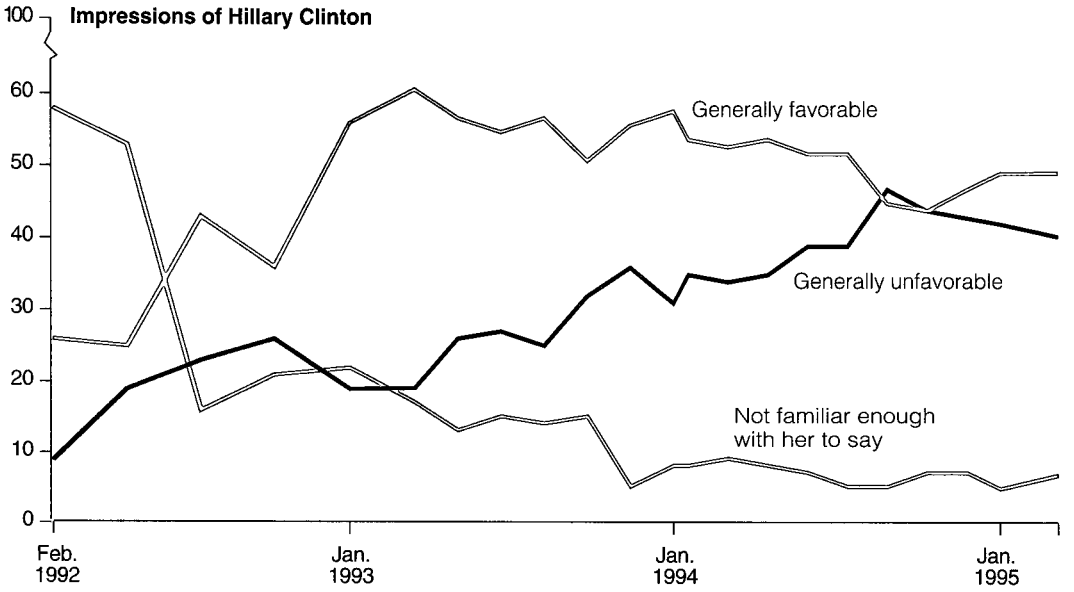
HILLARY RODHAM CLINTON

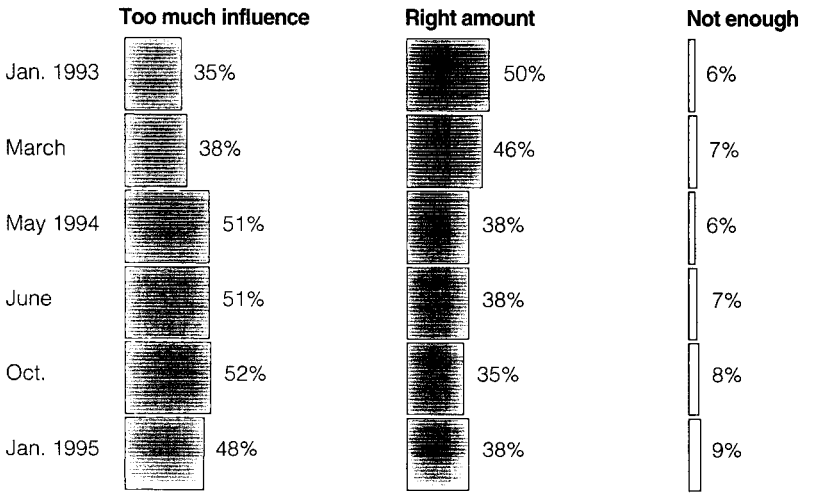
Over the last two years the number of Americans giving Hillary Rodham Clinton generally unfavorable ratings has risen. More Americans than in the past believe that she has too much influence on the administration, a finding that may explain her reduced visibility at home. There has been some erosion in the number viewing her as a positive role model, but a solid majority still say she is. A Gallup poll in January found the public split about her role in the next two years. Forty-nine percent said she should play a more traditional role, while 48 percent said she should continue to be more publicly involved in policy matters than other first ladies have been.

Question: **Please tell me whether you have generally favorable or generally unfavorable impressions of Hillary Clinton, or whether you are not familiar enough with that person to say one way or the other.**



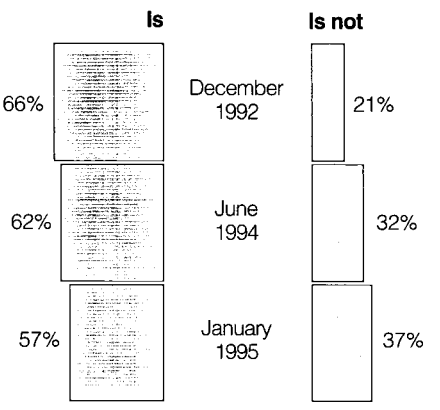
Source: Survey by Yankelovich Partners for *Time* and CNN, latest that of March 29–30, 1995.

Question: **Do you believe that Hillary Rodham Clinton has the right amount of influence in the Clinton Administration, too much influence, or not enough influence in the Clinton Administration?**



Source: Survey by the Hart/Teeter Research Companies for NBC News/*Wall Street Journal*, latest that of January 14–17, 1995.

Question: **Do you think that Hillary Rodham Clinton is a positive role model for American women, or not?**



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GROWING OLD

In the industrialized world, the number of people age 100 years or older has been doubling every decade since 1950. There are now 45,000 people over the age of 100 in the United States. How old is old? For Americans, the mean response is 72 years. Those over 60 put the age at 76. Younger Americans are more likely than older ones to say they want to live to be 100; older people are more likely to believe they will live longer. The best times of our lives tend to be present ones. In 1980 and 1984, Ronald Reagan's age wasn't an issue for most Americans. In a poll taken by Yankelovich Partners in March, 82 percent of registered Republicans said they didn't think Bob Dole was too old to run.

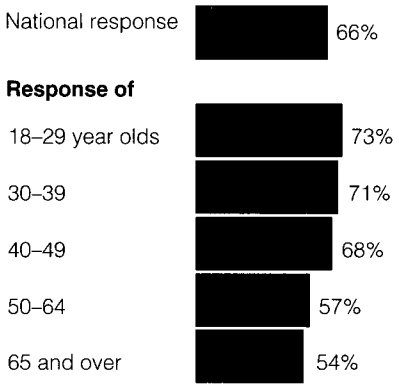
Question: **We hear a lot about old age and old people. How old does a person have to be before you think of them as old?**

A poll of women taken by Yankelovich Partners for Clinique Laboratories found that 16–29 year old women believed that a person was no longer young at age 43, 30–49 year olds put the age at 56, and those over 50 put it at 65.

Source: Survey by Roper Starch Worldwide Inc., September 10–17, 1994.

Question: **If it were possible, would you like to be 100 years old?**

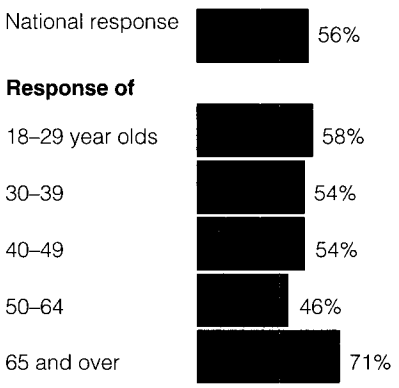
Would like to live to be 100 years old



Source: Survey by Belden and Russonello for the Alliance for Aging Research, October 9–17, 1991.

Question: **How old do you expect to live to be?**

Expect to live to be 80 or older



Question: **People feel differently about what years are the best time of a person's life. Which of these years do you think are the best times of life?**

	Responses of						
	18–20 year olds	**21–29**	**30–39**	**40–49**	**50–59**	**60–69**	**70+**
Childhood	23%	17%	16%	15%	11%	11%	9%
The teen years	43	26	21	14	10	9	11
The twenties	26	41	25	24	13	15	19
The thirties	9	10	30	19	21	16	16
The forties	4	3	5	25	14	18	17
The fifties	2	1	3	3	24	7	10
The retirement years	3	4	5	3	9	27	19

Source: Survey by Roper Starch Worldwide, Inc., March 19–26, 1994.

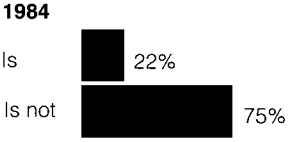
Question: **Would Ronald Reagan's age affect your 1980 presidential vote or not?**

1980

Source: Survey by CBS News/*New York Times*, June 18–22, 1980.

Question: **Some people have suggested that President Reagan's age should be a factor in deciding whether or not to vote for him for reelection. Do you think President Reagan, at age 73, is too old to serve as President four more years?**

1984



Source: Survey by Gordon Black for *USA Today*, October 12, 1984.

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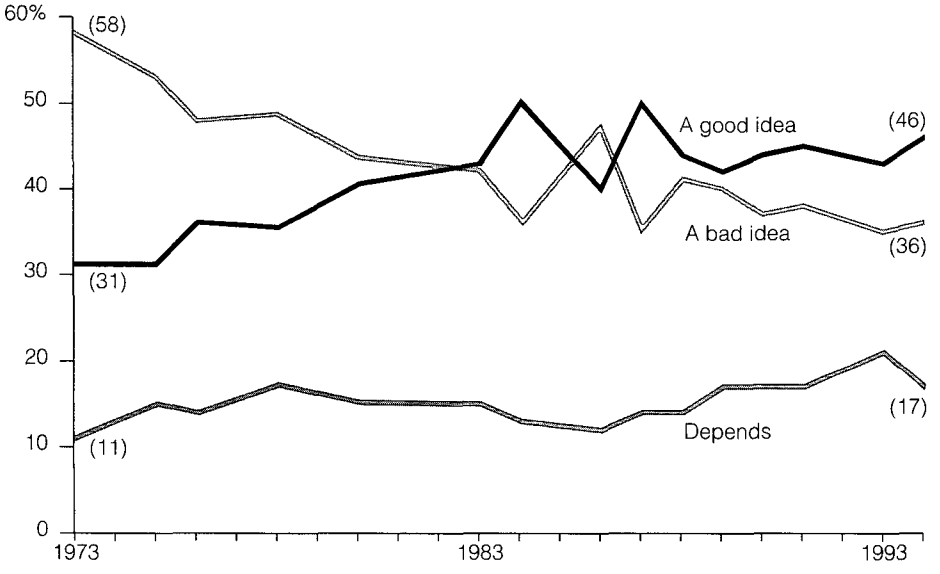
FAMILY TIES—OLD AND YOUNG

The number of Americans saying that it is a "good idea" for older people to share a home with their grown children has been rising for 20 years. All age groups endorse the change. Older people are less likely than the young to say it is a good idea. As to actual living arrangments, more elderly Americans are living alone or with a spouse today than in 1970. Fewer are living with other relatives . Looking at the other end of the age spectrum, the number of young adults living at home has been rising. Of those 25-34 years old, 8 percent lived with their parents in 1970; half-again as many do today.

Question: **As you know, many older people share a home with their grown children. Do you think this is generally a good idea or a bad idea?**

Older people sharing a home with their grown children is generally



1973 responses by age

	Good idea	Bad
18–29 years	40%	50%
30–44	33%	56
45–59	27%	61
60+	23%	64

1994 responses by age

	Good idea	Bad
18–29 years	60%	24%
30–44	55%	28
45–59	45%	36
60+	21%	58

Source: Surveys by the National Opinion Research Center, latest that of February–April 1994.

Living Arrangements

	Alone	With a spouse	With other relatives	With other nonrelatives
1970				
65–75 years	23%	59%	15%	3%
75+	32%	38%	26%	3%
1993				
65–75 years	24%	64%	11%	2%
75+	40%	42%	16%	2%

	Living with parents
1970	
18–24 years	47%
25–34 years	8%
1993	
18–24 years	53%
25–34 years	12%

Note: The Census includes students in dormitories in the category "children living with parents".

Source: U.S. Bureau of the Census.

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the Mail

Let me add these personal kudos to the others you've received on *TAE*. I appreciate the roster of new voices you've added to the magazine, although I happen to agree with Gregg Easterbrook that the politician interviews are the weakest element of the new book.

A quibble: your INDICATORS department (March/April) noted the net migration from California. As you may know, overall outmigration (which has stopped) was mostly middle-aged or older people. Young Americans, as well as immigrants, never stopped coming to our circus.

Tim Ferguson
Los Angeles, California

I want to congratulate you on the January/February issue of *The American Enterprise*. Although my area of interest is environmental economics and policy, not social welfare, I found this issue captivating. It is simply one of the best I've seen in years.

John A. Baden
Foundation for Research on Economics and the Environment
Seattle, Washington

Postmaster General Marvin Runyon asked me to respond to the recent article on the Postal Service in *The American Enterprise*.

The article, entitled "It's Broke and You Can't Fix It," (ENTERPRISING, January/February) implies that the Postal Service is merely awaiting an injection of embalming fluid.

On the contrary, although we have experienced pockets of poor delivery performance and cases of mishandled mail, there is no epidemic. In fact, the latest independent test showed an all-time high 84 percent on-time delivery rate.

The article also erroneously states that taxpayers subsidize advertising mail. In fact, Postal Service revenue comes from mail users; the agency has not received a penny of taxpayer money since 1982.

There are valid suggestions for restructuring the Postal Service, namely removing bureaucratic barriers that prohibit us from setting competitive rates on a reasonable timetable. UPS can change rates overnight while it takes the Postal Service a full year to do so.

The Postal Service is committed to improvement and is not about to be overrun by advanced technology. We will continue our work to guarantee that we will be part of the communications revolution, not its victim.

Larry M. Speakes
Vice President
United States Postal Service

You have made *TAE* into a really exciting magazine. It was rewarding to hear all the stars preaching Decentralization and Devolution in the March/April issue. I was pleased to see George Marlin bring subsidiarity into civil discourse. I am circulating Blake Hurst's sad story to members of the Vermont Education committees.

John McClaughry
Concord, Vermont

Bill Kauffman's article on the break-up of large states in your March/April issue was well written. Rumblings of the "quiet revolution" are apparent in at least 60 of Kansas's 105 counties. If the governor and the legislature fail to correct the inequity in tax policies in the near future, you can expect the monster to raise its head again with far more vigor.

Don Concannon
Hugoton, Kansas

I enjoyed the BIRD'S EYE column in the January/February issue. However, I found somewhat disingenuous the proposal to enforce the legal responsibility of fathers for their children. How do you enforce anything against fathers who are destitute and drug-ridden and have a dozen or more other children?

The proposal, moreover, for privately run maternity homes would be prohibitively expensive, and the public is clearly fed up with paying for someone else's illegitimate children.

Most disingenuous and even ludicrous is the proposal for a "giant effort to assist the adoption" of unwanted children. If this was feasible, we would not have the dangerous minority underclass destroying our cities today.

Clearly, the only realistic solution is mandatory abortion or sterilization for those who have children out of wedlock that they cannot or will not support.

I know it will be impossible for you to print this letter due to political pressure from the Catholic Church, the Moral Majority, and Right to Life groups. I just want you to know that there is a silent majority of Americans who believe what I have just proposed.

Martin Schiff
Jamaica Hills, New York

In your January/February issue, William J. Bennett states that "today's major domestic problem, clearly, is family solidarity, not race." The statistics he quotes comparing the income of black two-parent families with white single-parent families are misleading, however, since the circumstances surrounding the white and black underclass are profoundly different.

Furthermore, Bennett apparently rejects a wealth of scholarly research that indicates the link between welfare and illegitimacy is inconclusive. Thus his claim that the nation is "subsidizing illegitimacy" is not supported.

My Christian worldview centers around having compassion for the oppressed, in this case, the urban poor. Blaming poverty on the urban family does not seem to me in accordance with the morality and true essence of Christianity.

Katherine Bonalos
Santa Barbara, California

CORRECTION: Misled by several media reports, we confused Angela Davis of the Communist Party with Angela Davis, executive director of the National Rainbow Coalition in our March/April SIDELIGHTS. We regret the error.

The American Enterprise welcomes your comments. Send to "The Mail," The American Enterprise, 1150 17th Street N.W., Washington, D.C. 20036. Or fax to (202) 862-7178. Or e-mail 75272,1226@compuserve.com. Please include your address and phone number. Published letters may be edited for length and clarity.

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BioGraph

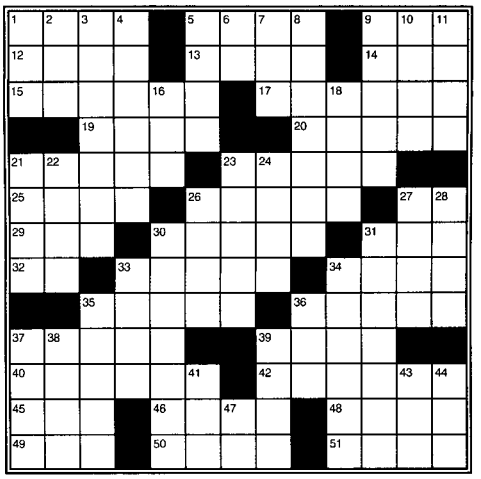
By Jonathan Schmalzbach

ACROSS

1 The leader of this country loves the Yankees and hates Yankees
5 The Licking, Sinking, Rough, Rockhouse and Ohio do it in KY
9 Chess pieces: abbr.
12 How Smith Barney makes money
13 Rehnquist administered this to Clinton in January 1993.
14 Home of Woody Hayes, minus eye
15 Baseball play-by-play man turned politico
17 First AND last names of infamous assassin
19 Mao successor
20 Woody Allen as chameleon
21 TV shock jock ___ George
23 What Daedalus built
25 _____ Hershiser
26 Smoking, drinking, gambling
27 Kennedy duchy, abbr.
29 Dada painter and photographer, Man ___
30 Alf Landon's famous role
31 Soviet response to Solzhenitsyn
32 First initials of author who created Charlotte and Stuart
33 Ex-NFL'er now in Congress, Julius Caesar _____
34 Newsman Roger
35 Dolley Madison battled these British creations in 1814
36 First name of youngest-ever baseball Hall of Famer
37 Jane Goodall's forte
39 Composer Jerome
40 What Gerald Ford did a record 48 times in 21 months
42 Income, sales, capital gains, and...
45 Marion Barry's birthplace in Mississippi, ___ beena
46 First name of Gulf War's BIGGEST celebrity
48 Where Donna Rice was in relation to Gary Hart's townhouse
49 ___ Moines
50 Diamond covering
51 Emperor Akbar's capital

DOWN

1 Don Quixote author, ___ vantes
2 Short-lived Egypt-Syria alliance
3 Senator who scored 53
4 Heavenly baseball author
5 Former Hawaiian senator Hiram
6 Darryl Gates' old beat
7 BookTalk department: abbr.
8 Nickname of the former Supreme Court justice who was a jock
9 Milwaukee Bucks owners (he's also a Senator)
10 Yul Brynner played a king of the people now known as
11 Von Trapp family's main product
16 Kind of chewing gum banned in Singapore
18 Roger of "Cheers"
21 Bella Abzug did this with hats
22 Sadat or Hassan or Hussein
23 Where Dian Fossey found gorillas
24 Koufax, Seaver, Carlton, Clemens
26 Mark Hatfield was teary when he did this in March
27 Lifesaving mothers' group
28 60 Minutes curmudgeon
30 Ex-NFL'er now receiving on Capitol Hill
31 Kentucky rep who won 100 in the NL and AL
33 Grape-loving drunkard
34 D.A. Clark
35 __ a fiddle
36 Simone de Beauvoir's "Second" book
37 Kind of skier Gerald Ford was
38 Senator Domenici
39 Champion quarterback and Congressman, also-ran HUD chief
41 Dead on arrival
43 Churchill's honorific
44 After zeta
47 Initials of the only President who was a former union head



The solution for BioGraph is on page 112.

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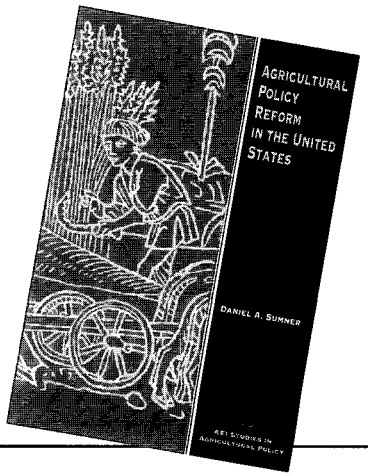

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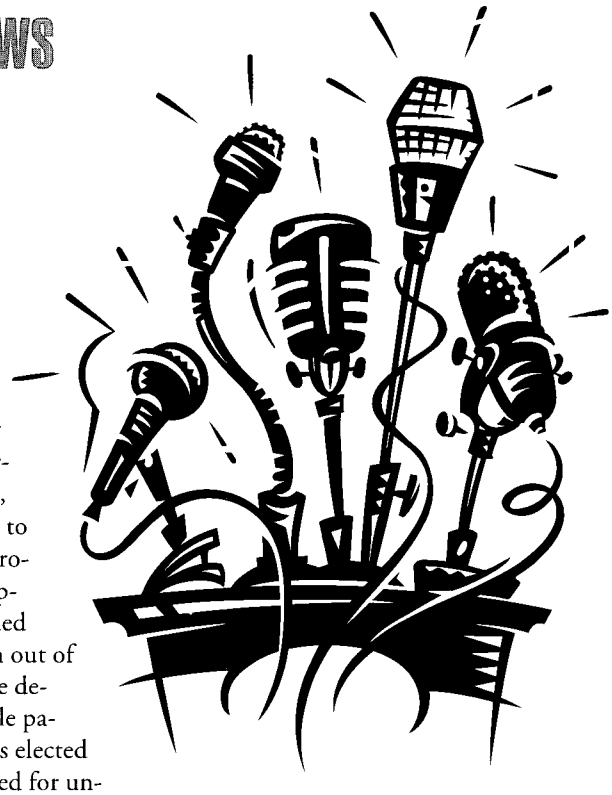
Names in the News



Meet Mr. CPA

Nomen est omen, said the Romans—your name is your fate. Shakespeare knew it, making Snug a joiner and Starveling a tailor. So did Dickens, who was less literal but no less accurate: his Cheerybles could only be beneficent; his Murdstones had to be monstrous.

In real life as in art, some names seem to have pushed their owners along. With a name like **Robert Lawless**, what else could one do but found a legal firm (Lawless and Lawless in Barnstable, Massachusetts) and become a state legislator? The fates—who like a joke as much as the rest of us—could hardly have permitted anything else.

Others in political life have taken their fate into their own hands, improving on the name their parents gave them.

In my home state of Kentucky one of our former state treasurers goes by **Robert Mead CPA**, after legally adding the "CPA" to his name in 1987 so that his professional certification would appear on the ballot. He continued to be good entertainment even out of office: though Mead CPA once described himself in the Louisville paper as a "millionaire," when his elected term ended he promptly applied for unemployment insurance. (He'd been fired by the voters, of course!) His request was denied.

But then there are so many given names that just can't be improved upon. Somewhere in the Boston area live two young women one of my cousins once taught in a Head Start class: **Chiffon Chardonnay** (her mother had been drinking white wine when she was conceived—and wearing?) and **April May August**. Years ago in Philadelphia my father crossed paths with a woman known as **Heavenly Love**, about whose character and religious leanings I'm sorry to say I know nothing. My mother's all-time favorite classmate name is **Isadore Dovebird**, while my brother Lisle's is **Klondike Steamboat Steadman**, a student at the University of California at Santa Barbara, and perhaps that explains it. I only wish I could tell you what his friends call him for short.

All you Southern alumni of the little Connecticut college named in honor of Elihu Yale will appreciate one recent graduate: **Rebel Eli**.

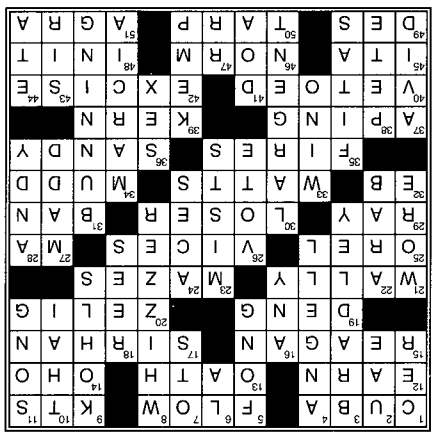
Being a Southerner myself, I have plenty of remarkable names in my own family. Place names are big, and my favorite is a downstate cousin (a couple generations back) called **Louisville Kentucky Denney**—Cousin Lou, I suppose.

But in all my years of living I have never been able to find a handle that compares to the one carried by a Georgia friend of mine's great-uncle. This gentleman was known as Uncle Shad, but he was christened almost every name in the Book of Daniel: **Shadrach Meshach Abednego Nebuchadnezzar King of the Jews Dorminey**. For those of you who need reminding, those are the three boys doomed to the fiery furnace and the king who threw them in there. I don't know what it was Uncle Shad's fate to be, but as far as I'm concerned, his wonderful name is unbeatable.

—KD

Answers to Biograph

(see puzzle page 111)



BioGraph fans

If you want TAE to continue running the puzzle, let us know. Send a card to BioGraph, 430 South Geneva Street, Ithaca, NY 14850.

The winner of our mystery gift drawing for returning a reader feedback card (see insert between pages 96 and 97) was **Scott Shreckhise** of Roanoke, Virginia for our last issue.

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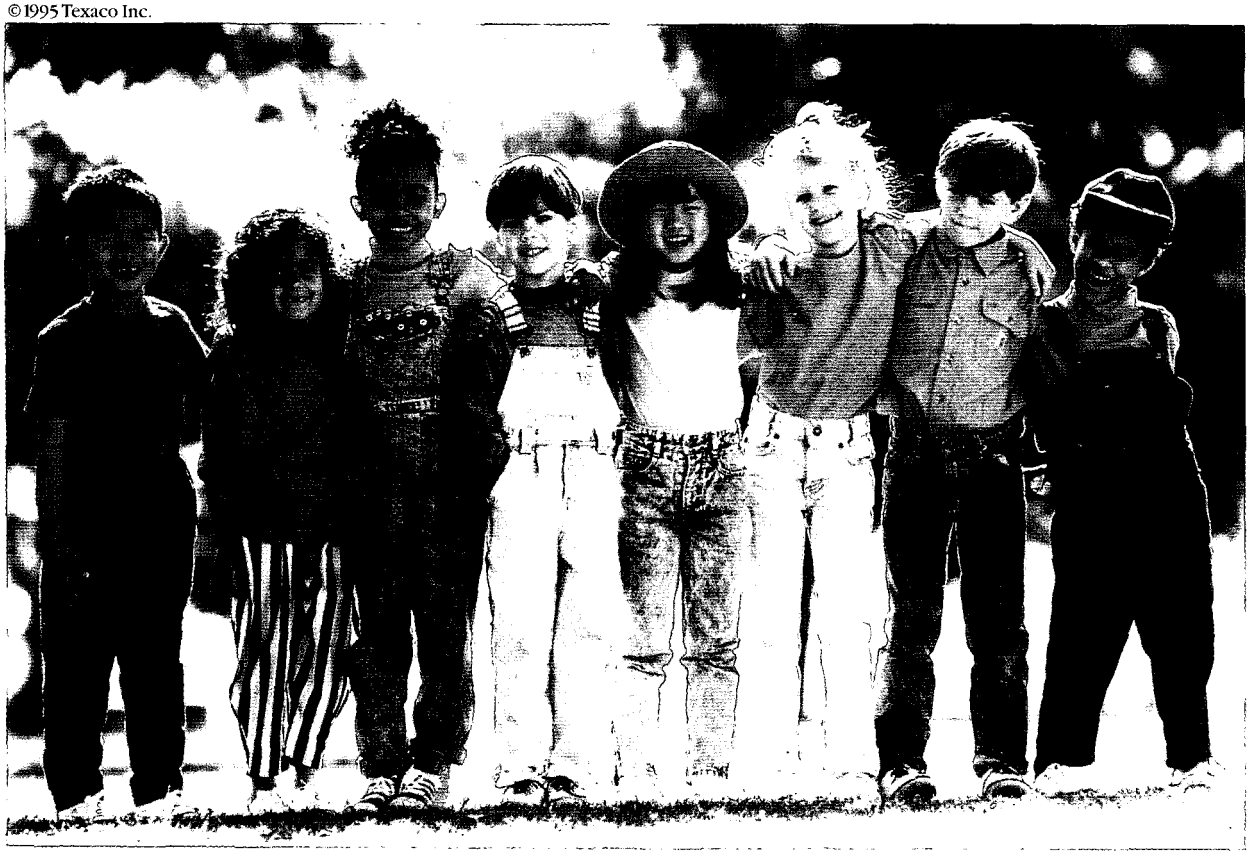

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TAKE IT TO THE STAR

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"One thing you learn in racing is that they don't wait for you." *Roger Penske*

When he was fourteen years old, Roger Penske's father took him to see his first Indianapolis 500. "The crowd, the excitement—it just got to me," Penske recalls. "I said to myself, 'Someday I'm going to compete here.'"

Eighteen years later he made it to Indy as the leader of Team Penske. To date, they have won ten Indy 500 victories, and are the most successful team ever.

In addition to managing his racing team, Penske runs an international multi-billion-dollar transportation business. "I try to teach my people that it's up to them to innovate, to make things happen."

Roger Penske combines a focus on results with attention to detail. "What I like about Rolex," he explains, "is that they don't compromise either. That's why I've worn a Rolex for over two decades."

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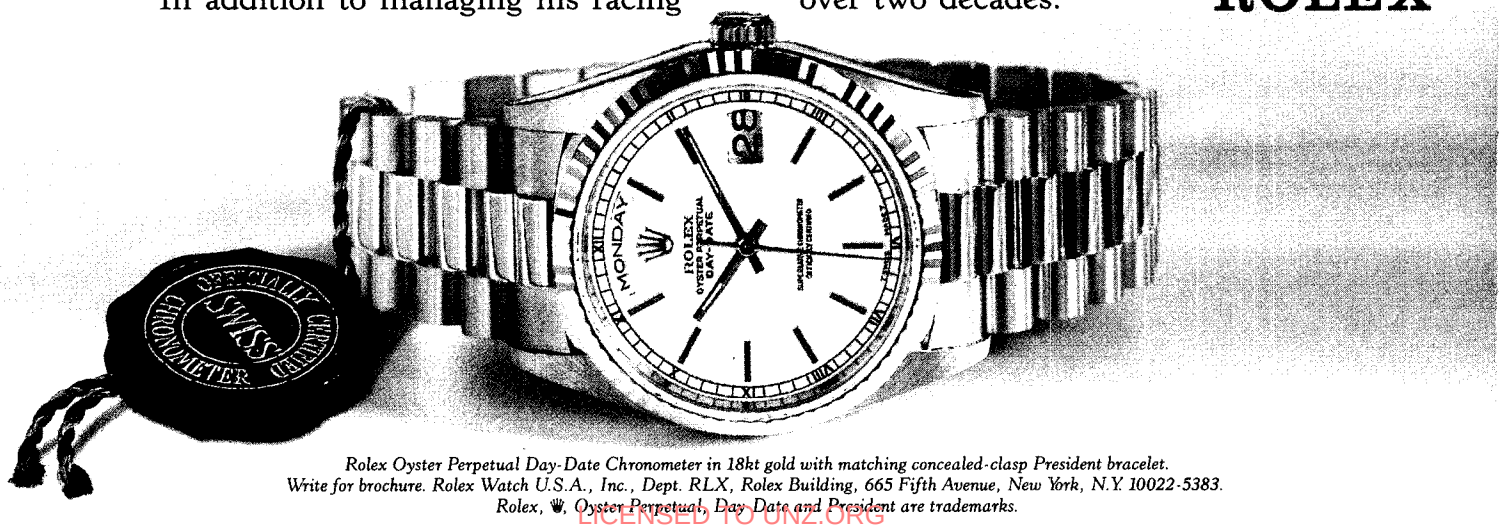

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